

BOMBAY LAND REVENUE CODE, 1879

5 of 1879

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CONTENTS

CHAPTER 1 :- PRELIMINARY

1. Short title
2. .
3. Interpretation section
4. Chief controlling authority in revenue matters
5. .
6. .
7. Division to be divided into districts
- 7A. Power of State Government to alter limits of, or to amalgamate or constitute villages.
8. Collector of the district.
- 8A. Additional Collectors
9. Assistant and Deputy Collector
10. Their duties and powers
11. Collector of the district in case of temporary vacancy
12. The Mamlatdar; his appointment
- 12A. Additional Mamlatdars
13. The Mahalkari, his duties and powers
14. Mamlatdar or Mahalkari may depute subordinates to perform certain of his duties
15. Mamlatdar or Mahalkari in case of temporary vacancy
16. Stipendiary Patel and Village-Accountant to be appointed where no hereditary Patel or Village-Accountant exists.
17. Village-Accountant to keep such records as he may be
18. Survey Officers
19. Combination of offices
20. Certain officers appointments to be notified.
21. .
22. Seals

CHAPTER 3 :-OF THE SECURITY TO BE FURNISHED BY CERTAIN REVENUE OFFICERS AND THEIABILITY OF PRINCIPALS AND SURETIES.

23. .
24. .

- 25. Demands for money, papers, etc., to be made known in writing to the person concerned
- 26. Public moneys may also be recovered as arrears of revenue; and search warrant may be issued for recovery of papers or property
- 27. Surety to be liable in the same manner as principal
- 28. An officer or surety in jail may, by furnishing certain security, obtain his release
- 29. Liability of surety not affected by death of principal or by his taking a different appointment
- 30. How surety may withdraw from further liability

CHAPTER 4 :- OF CERTAIN ACTS PROHIBITED TO REVENUE OFFICERS, AND OF THEIR PUNISHMENT FOR MISCONDUCT

- 31. .
- 32. .
- 33. .
- 34. .
- 35. .
- 36. .

CHAPTER 5 :- OF LANDS AND LAND REVENUE

- 37. All public roads, etc., and all lands which are not the property of others belong to the Government.
- 37A. Extinction of rights of public and individuals in or over any public road, lane or path not required for use of public
- 38. Lands may be assigned for special purposes and when assigned shall not be otherwise used without sanction of the Collector
- 39. Regulation of use of pasturage
- 39A. Recovering value of natural products unauthorisedly removed from certain lands
- 40. Concession of Government rights to trees in case of settlements completed before the passing of this Act.
- 41. Trees and forests vesting in the Government.
- 42. Road side trees.
- 43. Recovery of value of trees, etc., unauthorisedly appropriated.
- 44. Regulation of supply of fire wood and timber for domestic or other purposes.
- 45. All land liable to pay revenue unless specially exempted
- 46. Liability of alluvial lands to land revenue
- 47. Assessment of land revenue in cases of diluvion
- 48. Manner of assessment and alteration of assessment
- 49. Commuted assessment of land indirectly taxed to the State
- 50. Superior holder may recover commuted assessment from inferior holder
- 51. Excess of assessment may be laid on land inadequately assessed held with it
- 52. Assessment by whom to be fixed.
- 53. Register of alienated lands.

- 54. Settlement of assessment to be made with the holder directly from State Government.
- 55. Rates for the use of water.
- 56. Land revenue to be a paramount charge on the land.
- 57. Forfeited holdings may be taken possession of and otherwise disposed.
- 58. Receipts.
- 59. Penalty for failure to grant receipts.

CHAPTER 6 :-OF THE GRANT, USE AND RELINQUISHMENT OF UNALIENATED LAND

- 60. Written permission of Mamlatdar or Mahalkari required previous to taking up unoccupied land.
- 61. Penalties for unauthorized occupation of land.
- 62. Unoccupied land may be granted on conditions.
- 63. Grant of alluvial land vesting in the Government.
- 64. Temporary right to alluvial lands of small extent.
- 65. Uses to which occupant of land for purposes of agriculture may put his land.
- 65A. Procedure if occupant wishes to apply his land from one non-agricultural purpose to another non-agricultural purpose.
- 65B. Use of certain lands for bonafide industrial purpose.
- 66. [Penalty for using land without permission.
- 67. Permission may be granted on terms.
- 67A. Payment of conversion tax by occupant for charge of use of land in certain areas.
- 68. Occupants rights are conditional.
- 69. Reservation of right of the Government to mines and mineral products.
- 69A. Vesting of rights to mines and mineral and mineral products in the State Government.
- 70. Occupancy when not liable to process of Civil Court, the Court to give effect to Collectors certificate.
- 71. .
- 72. Interstate occupancy or holding to be sold.
- 73. Occupancy to be transferable and heritable.
- 73A. Power to restrict right of transfer.
- 73AA. Restriction on transfer of occupancies of tribal to tribal or non-tribal.
- 73AB. Payment of premium for sanctioning transfer or partition of occupancy.
- 73AC. Bar of jurisdiction of Civil Courts.
- 73AD. Restriction on registration of documents.
- 73B. Payment of premium for sanctioning transfer or partition of occupancy.
- 74. Relinquishment.
- 75. .
- 76. Relinquishment of land described in paragraph 1 of section 49
- 77. Right of way to relinquished land.

78. Saving of operation of section 74 in certain cases.

79. .

79A. Summary eviction of person unauthorisedly occupying land.

80. To prevent forfeiture of occupancy, certain persons other than the occupant may pay the land revenue-Collector may assist such persons in recovering the revenue from other parties liable therefor.

81. .

82. Provincial Government empowered to suspend operation of section 60 or 74.

CHAPTER 7 :- OF SUPERIOR AND INFERIOR HOLDERS

83. Amount of rent payable by tenant.

84. Annual tenancy terminates on the 31st March.

84IA. Sections 83 and 84 not to apply to certain tenancies.

84A. Order granting suspensions or remissions to inferior holders.

85. Recovery of superior holders due.

86. Superior holders entitled to assistance in recovery of dues from inferior holders, etc.

87. The Collector how to proceed on such application being made.

88. .

89. .

90. .

91. .

92. .

93. .

94. .

94A. Recovery as revenue demand of dues of certain superior holders for specified period.

CHAPTER 8 :-OF SURVEYS, ASSESSMENTS AND SETTLEMENTS OF LAND REVENUE

95. Revenue survey may be introduced by State Government into any part of Presidency.

96. Survey officer may require, by general notice or by summons suitable service from holders of land, etc.

97. Assistance to be given by holders and others in the measurement or classification of lands.

98. Survey numbers not to be less than a certain extent.

99. .

100. .

101. .

102. .

103. .

104. .

105. The fixing of assessment under section 102 limited to ordinary land revenue.

106. State Government may direct a fresh survey and revision of assessment.

107. .

- 108. Preparation of statistical and fiscal records.
- 109. .
- 110. .
- 111. Revenue management of villages or estates not belonging to the Government that may be temporarily under the management of State Government.
- 112. Maintenance of existing settlements of land revenue.
- 113. Partition.
- 114. .
- 115. .
- 116. Division of survey numbers into new survey numbers.
- 117. .
- 117A. Division of survey numbers into sub-divisions.
- 117B. Provisions applicable on relinquishment or forfeiture of a sub-division.

CHAPTER 8A :-ASSESSMENTAND SETTLEMENT OF LAND REVENUE OF AGRICULTURAL LAND

- 117C. Interpretation section.
- 117D. Government may direct an original or revision settlement of land revenue of lands comprised in a revenue survey.
- 117E. The term of settlement.
- 117F. .
- 117G. Assessment how determined.
- 117H. Increased in value due to improvements at the expense of holders not to be taken into account.
- 117I. Settlement Officer how to proceed for making a settlement.
- 117J. Settlement report to be printed and published.
- 117K. Submission to Government of settlement report with statement objections etc. and Collectors opinion thereon.
- 117KK. Reference to Revenue Tribunal.
- 117L. Settlement report to be laid on table of Legislature and copies be supplied to the members of each Chamber.
- 117M. Power of State Government to place surcharge or grant rebate after every ten years.
- 117N. Power to Government to exempt from assessment for water advantages.
- 117O. Introduction of settlement.
- 117P. Assessment of lands wholly exempt from payment of land revenue.
- 117Q. Power to Government to direct assessment for water advantages.
- 117R. Settlements made before this Act to be deemed to be made under this chapter.

CHAPTER 9 :-THE SETTLEMENT OF BOUNDARIES AND THE CONSTRUCTION AND MAINTENANCE OF BOUNDARY MARKS

- 118. Determination of village-boundaries.

- 119. Determination of field-boundaries.
- 120. Settlement of boundary disputes by arbitration.
- 121. Effect of the settlement of a boundary.
- 122. Construction and repair of boundary marks of survey numbers and villages.
- 123. Responsibility for the maintenance of boundary-marks.
- 124. Collector to have charge of boundary marks after introduction of the survey settlement.
- 125. Penalty for injuring boundary-marks.

CHAPTER 10 :- O F LANDS WITHIN THE SITES OF VILLAGES, TOWNS AND CITIES

- 126. Limits of sites of villages, towns and cities how to be fixed.
- 127. Act XI of 1852 and Bombay ActsII and VII of 1863 how far applicable to lands in such sites.
- 128. Existing exemption when to be continued in case of certain lands in towns and cities in which Bombay Act IV of 1868 has been in operation.
- 129. Right to exemption to be determined by the Collector.
- 130. Occupancy price payable, in addition to assessment in certain cases.
- 131. Survey of lands in such sites how to be conducted.
- 132. In certain cases a survey-fee to be charged.
- 133. Sanad to be granted without extra charge.
- 134. Assessment of lands hitherto used for purpose of agriculture only used for other purposes.
- 135. .

CHAPTER 10A :- OF THE RECORD OF RIGHTS

- 135A. Exemption from provisions of this chapter.
- 135B. The record of rights.
- 135C. Acquisition of rights to be reported.
- 135D. Register of mutations and register of disputed cases.
- 135E. Obligation to furnish information.
- 135F. Penalty for neglect to afford information.
- 135G. Requisition of assistance in preparation of maps.
- 135H. Certified copy of record to be annexed to plaint or application.
- 135I. Refusal of assistance under section 87.
- 135J. Presumption of correctness of entries in record of rights and register of mutations.
- 135K. Certified copies.
- 135L. Bar of suits and exclusion of Chapter XIII Appeal.

CHAPTER 10B :- OF THE AGRICULTURIST PASS BOOK

- 135LL. Application.
- 135M. Preparation and supply of agriculturist pass- book.
- 135N. Agriculturist pass-book to accompany application for financial

assistance.

135O. Entries in agriculturist pass-book by banks.

135OO. Document for registration of transfer of agricultural land to accompany the agriculturist pass-book.

135OOO. Responsibility of competent authority.

135P. Agriculturists pass-book to be kept up-to-date.

135Q. Duplicate agriculturist pass-book to be kept up- to-date.

135R. Mode of proof of entries in agriculturist pass- book.

135S. Penalty for contravention of section 135P.

135T. Penalty for unauthorised alteration in pass-book or furnishing false information.

CHAPTER 11 :-OF THE REALIZATION OF THE LAND REVENUE AND OTHER REVENUE DEMANDS

136. Liability for land revenue.

137. Claims of State Government to have precedence over all others.

138. The liability of the crop for the revenue of the land.

139. Land revenue may be levied at any time during the revenue year.

140. Removal of crop which has been sold, etc., may be prevented until revenue paid.

141. In order to secure the land revenue the Collector may prevent the reaping of the crop, or.

142. Collectors orders under last section how to be made known Penalty for disobedience of order.

143. Reaping, etc., not to be unduly deferred, unduly of crop when to be released.

144. Temporary attachment and management of a village or share of a village.

145. Precautionary measures to be relinquished on security being furnished.

146. State Government to determine the dates, etc., on which land revenue shall be payable

147. Arrear defaulters.

148. Liabilities incurred by default.

149. Certified account to be evidence as to arrears.

150. Process for recovery of arrears.

151. Revenue demands of former years how recoverable.

152. When notice of demand may issue.

153. The occupancy or alienated holding for which arrear is due may be forfeited.

154. Distraint and sale of defaulters moveable property.

155. Sale of defaulters immovable property.

156. Exemption from distraint and sale.

157. Arrest and detention of defaulter.

158. Power of arrest by whom to be exercised.

159. Power to attach defaulters village and take it under management.

- 160. Lands of such village to revert free of encumbrances.
- 161. Application of surplus profits.
- 162. Restoration of village so attached.
- 163. Village, etc., to vest in the State Government if not redeemed within twelve years.
- 164. But all processes to be stayed on security being given; or on amount-demanded being paid under protest
- 165. Procedure in effecting sales.
- 166. Notification of sales.
- 167. Sale by whom to be made.
- 168. Sale of perishable articles.
- 169. When sale may be stayed.
- 170. Sales of moveable property when liable to confirmation.
- 171. Mode of payment for moveable property when sale is concluded at once.
- 172. Mode of payment for moveable property when sale is subject to confirmation.
- 173. Deposit by purchaser in case of sale of immoveable property.
- 174. Purchase-money when to be paid.
- 175. Effect of default.
- 176. Liability of purchaser for loss by re-sale
- 177. Notification before re-sale.
- 178. Application to set aside sale.
- 179. Order confirming or setting aside sale.
- 180. Refund of deposit or purchase-money when sale set aside.
- 181. On confirmation of sale purchaser to be put in possession
- Certificate of purchase.
- 182. Bar of suit against certified purchaser.
- 183. Application of proceeds of sale.
- 184. Surplus not to be paid to creditors except under order of Court.
- 185. Certified purchaser liable only for land-revenue subsequently due.
- 186. Claims to attached movable property how to be disposed of.
- 187. What moneys leviable under the provisions of this Chapter.

CHAPTER 12 :- PROCEDURE OF REVENUE OFFICERS

- 188. Subordination of revenue officers.
- 189. Power to summon persons to give evidence and produce documents.
- 190. Summons to be in writing, signed and sealed.
- 191. Mode of serving notices.
- 192. Procedure for procuring attendance of witnesses.
- 193. Mode of taking evidence in formal inquiries.
- 194. Writing and explanation of decisions.
- 195. Summary inquiries how to be conducted.
- 196. Formal and summary inquiries to be deemed judicial proceedings.
- 197. Ordinary inquiries how to be conducted.

- 198. Copies and translations, etc., how to be obtained.
- 199. Arrest of a defaulter to be made upon a warrant.
- 200. Power of revenue officer to enter upon any lands or premises for purposes of measurement, etc.
- 201. State Government to determine the language of a district.
- 202. Collector how to proceed in order to evict any person wrongfully in possession of land.

CHAPTER 13 :- APPEALS AND REVISION

- 203. Appeal to lie from any order passed by revenue officer to his superior.
- 204. Appeal when to lie to the State Government.
- 205. Periods within which appeals must be brought.
- 206. Admission of appeal after period of limitation.
- 207. Provision where last day for appeal falls on a Sunday or a holiday.
- 208. Copy of order to accompany petition of appeal.
- 209. Powers of appellate authority.
- 210. Power to suspend execution of order of subordinate officers.
- 211. Power of State Government and of certain revenue officers to call for and examine records and proceedings of subordinate officers; and to pass orders thereupon.
- 212. Rules as to decisions or orders expressly made final.

CHAPTER 14 :- MISCELLANEOUS

- 213. Maps and land records open to inspection. Extracts and copies shall be given.
- 214. Rules.
- 215. Penalty for breach of rules.
- 216. Chapters VIII to X to apply to alienated villages.
- 217. Holders of land in alienated villages.
- 218. Construction of this Act.
- 218A. Repeal of Bombay V of 1879 as in force in the Kutch area of the State of Gujarat.
- 219. Repeal of Bombay V of 1879 as in force in Saurashtra area of State of Bombay.
- 220. Removal of difficulties.

SCHEDULE A :- A

SCHEDULE B :- B

SCHEDULE C :-FORM OF WARRANT TO BE ISSUED BY THE COLLECTOR UNDER SECTION 25 OR 157

SCHEDULE D :-FORM OF BOND TO BE REQUIRED UNDER SECTION 28 OR 164

SCHEDULE E :-I-FORM OF NOTICE TO BE GIVEN BY LANDLORD

TO TENANT TO QUIT.

SCHEDULE F :- F

SCHEDULE H :- FORM OF SANAD FOR BUILDING SITES

SCHEDULE 1 :-FORM OF WARRANT TO BE ISSUED BY THE COLLECTOR UNDER SECTION 202

SCHEDULE J :-(Modifications subject to which this Act extends to the Saurashtra area of the State of Bombay).

BOMBAY LAND REVENUE CODE, 1879

5 of 1879

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CHAPTER 1 PRELIMINARY

1. Short title :-

(1) This Act may be cited as "The Bombay Land Revenue Code, 1879;

(2) Local extent- Save as otherwise provided by Chapter XA, this Act extends to¹[Bombay area of the State of Gujarat].

²[x x x]

³[(4) Save as otherwise provided by Chapter XA, it also extends to the Saurashtra area of the State of Bombay subject to the modifications specified in Schedule J appended to this Act.]

⁴ [(5) On and from the date of the coming into force of the Bombay Land Revenue (Extension of Kutch Area and Amendment) Act, 1965, (Gujarat 5 of 1965) this Act shall also extend to and be in force in the Kutch area of the State of Gujarat.]

1. Substituted by Gujarat A.O. 1960.
2. Omitted by Gujarat A.O. 1960.
3. Added by Bombay 41 of 1959.
4. Inserted by Gujarat 5 of 1965.

2. . :-

Repealed]

3. Interpretation section :-

In this Act, unless there be something repugnant in the subject or

context-

(1) "revenue officer" means every officer of any rank whatsoever appointed under any of the provisions of this Act, and employed in or about the business of the land revenue or of the surveys, assessment, accounts, or records connected therewith and for the purposes of sections 25 and Section 26 includes village-officer appointed or officiating under any of the provisions of the Bombay Hereditary Offices Act or the Matadars Act, 1887;

(2) "Survey officer" means an officer appointed under, or in the manner provided by section 188 ;

(3) "Survey settlement" includes a settlement made under the provisions of Chapter VIIIA;

(4) "Land" includes benefits to arise out of land, and things attached to the earth, or permanently fastened to anything attached to the earth, and also shares in or charges on, the revenue or rent of villages, or other defined portion of territory;

(5) "estate" means any interest in lands and the aggregate of such interests vested in a person or aggregate of persons capable of holding the same;

(6) "survey number" means a portion of land of which the area and assessment are separately entered, under an indicative number in the land records;

(7) "Sub-division of a survey number" means a portion of a survey number of which the area and assessment are separately entered in the land records under an indicative number subordinate to that of the survey number of which it is a portion;

(8) "chavdi" means in any village in which there is no chavdi. such place as the Collector may direct shall be deemed to be the chavdi for the purposes of this Act;

(9) "building site" means a portion of land held for building purposes, whether any building be actually erected thereupon or not, and includes the open ground or court-yard enclosed by, or adjacent to, any building erected thereupon;

(10) "boundary-mark" means any erection, whether of earth, stone, or other material, and also any hedge, unplugged ridge, or strip of ground, or other object whether natural or artificial, set up,

employed or specified by a survey officer, or other revenue officer having authority in that behalf, in order to designate the boundary of any division of land;

(11) "to hold land" or to be a "landholder" or "holder" of land means to be lawfully in possession of land, whether such possession is actual or not;

(12) "holding" means a portion of land held by a holder;

(13) "superior holder" means a landholder entitled to receive rent or land revenue from other landholders (hereinafter called "inferior holders") whether he is accountable or not for such rent or land revenue, or any part thereof, to the State Government:

provided that where land has been granted free of rent or land revenue, subject to the right of resumption in certain specified contingencies, by a Jagirdar, Inamdar or other such holder of alienated land whose name is authorisedly entered as such in the land records, such Jagirdar, Inamdar or holder shall, with reference to the grantee, be deemed to be the superior holder of land so granted by him and the grantee shall, with reference to the grantor, be deemed to be the inferior holder of such land and for the purposes of section 8 of the Bombay Local Funds Act, 1869, shall notwithstanding anything hereinafter contained in the definition of the word "tenant", be deemed to be the tenant of such grantor;

(14) "tenant" means a lessee, whether holding under an instrument, or under an oral agreement, and includes a mortgagee of a tenant's rights with possession; but does not include a lessee holding directly under the Government;

(15) "landlord" means a lessor;

(16) "occupant" means a holder in actual possession of unalienated land, other than a tenant; provided that where the holder in actual possession is tenant the landlord or superior landlord, as the case may be, shall be deemed to be the occupant;

(17) "occupy" means a portion of land held by an occupant;

(18) "to occupancy land" means to possess or take possession of land;

(19) "occupation" means possession;

(20) "alienated" means transferred in so far as the rights of the State Government to payment of the rent or land revenue are concerned, wholly or partially, to the ownership of any person;

(21) "village" includes a town or city and all the land belonging to a village, town or city;

(22) the words "revenue year" or "year" means the period from, and exclusive of, the thirty-first July of one calendar year until, and inclusive of, the thirty-first July in the next calendar year;

(23)[Repealed].

(24) [Repealed].

(25) The term "joint holders", or "joint occupants", means holders or occupants who hold land as co-sharers, whether, as co-sharers in a family undivided, according to Hindu law or otherwise, and whose shares are not divided by metes and bounds; and where land is held by joint holders or joint occupants, "holder" or "occupants", as the case may be, means all of the joint holders or joint occupants;

(26) "land records" means records maintained under the provisions of, or for the purposes of, this Act;

(27) "certified copy" or "certified extract" means a copy or extract, as the case maybe, certified in the manner prescribed by section 76 of the Indian Evidence Act, 1872;

1 [(27-A) In this Act, where there is any reference to any other enactment or a provision thereof, such enactment or provision shall not merely by reason of such reference be deemed to extend to the Kutch area of the State of Gujarat but if there be any law corresponding to such enactment or provision in force in the said area, the reference tot he enactment or provision as aforesaid shall include a reference to such corresponding law.]

1. Inserted by Gujarat 35 of 1965. CHAPTER II

4. Chief controlling authority in revenue matters :-

1 _

(1)The chief controlling authority in all matters connected with the land revenue shall vest in the State Government.

(2) The State Government may, by notification in the Official Gazette, prescribe the territories in the State which shall form a

division and may by a like notification alter the limits of the division so formed].

1. Substituted by Gujarat 15 OF 1964

5. . :-

Deleted]

6. . :-

¹ [Deleted]

1. Deleted by Gujarat 15 of 1964

7. Division to be divided into districts :-

Each division¹ [x x x] shall be divided into such districts with such limits as may from time to time be prescribed by a duly published order of the State Government. A district to consist of talukas comprising such mahals and villages as State Government may direct.-And each such district shall consists of such talukas, and each taluka shall consist of such mahals and villages, as may from time to time be prescribed in a duly published order of the State Government. And each such mahal shall consist of such villages as may from time to time be prescribed by a duly published order of the State Government.

1. Deleted by Gujarat 15 of 1964

7A. Power of State Government to alter limits of, or to amalgamate or constitute villages. :-

¹ The State Government may from time to time by a duly published order alter or add to the limits of any village or amalgamate two or more villages or constitute a new village.]

1. Inserted by Bombay 33 of 1950.

8. Collector of the district. :-

The State Government shall appoint in each district as officer who shall be the Collector¹[x x x] and who² [x x x] may exercise, throughout his district all the powers and discharge all the duties conferred and imposed on a Collector or an Assistant or Deputy Collector by this Act, or any other law for the time being in-force, and in all matters not specially provided for by law shall act according to the instructions of the State Government.

1. Repealed by Amending Act 16 of 1895.

2. Deleted by Gujarat 15 of 1964

8A. Additional Collectors :-

1

(1) The State Government may appoint in each district so many Additional Collectors as it may deem fit² [x x x] The Additional Collector shall exercise such powers and discharge such duties as are exercised or discharged by the Collector in the district or a part of district under this Act or any other law for the time being in force as the State Government may direct.

(2) An Additional Collector appointed under sub-section (1) shall not be subordinate to the Collector except in such matters as the State Government may by a general or special order specify in this behalf.]

1. Inserted by Bombay 45 of 1956.

2. Deleted by Gujarat 15 of 1964.

9. Assistant and Deputy Collector :-

The State Government may appoint to each district so many Assistant Collectors, and so many Deputy Collectors as it may deem expedient; the Assistants shall be called "First", "Second", "Supernumerary", etc. as may be expressed in the order of their appointment. to be subordinate to the Collector.-All such Assistant and Deputy Collectors and all other officers employed in the land revenue administration of the district shall be subordinate to the Collector.

10. Their duties and powers :-

Subject to the general orders of the State Government, a Collector may place any of his assistants or deputies in charge of the revenue administration of one or more of the talukas in his district, or may himself retain charge thereof. Any Assistant or Deputy Collector thus placed in charge shall, subject to the provisions of Chapter XIII perform all the duties and exercise all the powers conferred upon a Collector by this Act or any other law at the time being in force, so far as regards the taluka or talukas in his charge:

Provided that the Collector, may whenever he may deem fit, direct any such Assistant or Deputy not to perform certain duties or exercise certain powers, and may reserve the same to himself or assign them to any other Assistant or, Deputy subordinate to him.

To such Assistant or Deputy Collector as it may not be possible or expedient to place in charge of talukas, the Collector shall, under the general orders of the State Government, assign such particular

duties and powers as he may from time to time see fit.

11. Collector of the district in case of temporary vacancy :-

If the Collector is disabled from performing his duties or for any reason vacates his office or leaves his district, or dies, his Assistant of highest rank present in the district shall unless other provision has been made by State Government, succeed temporarily to his office, and shall be held to be the Collector under this Act until the Collector resumes charge of his district or until the State Government, appoints a successor to the former Collector and such successor takes charge of his appointment. An officer whose principal office is different from that of an Assistant Collector, and who is an Assistant Collector for special purposes only, shall not be deemed to be an Assistant for the purposes of this section.

12. The Mamlatdar; his appointment :-

The chief officer entrusted with the local revenue administration of a taluka shall be called a Mamlatdar. He shall be appointed by the State Government. His duties and powers.-His duties and powers shall be such as may be expressly imposed or conferred upon him by this Act or by any other law for the time being in force, or as may be imposed upon or delegated to him by the Collector under the general or special orders of the State Government.¹ [A decision or order of a Mamlatdar in performance of the duties and exercise of the powers, imposed or conferred upon him or delegated to him under this section, shall be subject to the provisions of Chapter XIII.]

1. Added by Gujarat 2 of 1987.

12A. Additional Mamlatdars :-

1

(1) The State Government may appoint so many Additional Mamlatdars, as it may deem fit. An Additional Mamlatdar shall exercise such powers and discharge such duties in a taluka or part of a taluka under this Act or any other law for the time being in force as the State Government may direct.

(2) An Additional Mamlatdar shall not be subordinate to the Mamlatdar in the taluka except in such matters as the State Government may by a general or special order specify in this behalf.

1. Inserted by Bombay 45 of 1956.

13. The Mahalkari, his duties and powers :-

Whenever it may appear necessary to the State Government, the State Government may appoint to a taluka one or more Mahalkaris and, subject to the orders of the State Government¹ [x x x] the Collector may assign to a Mahalkari within his local limits such of the duties and powers of a Mamlatdar as he may from time to time see fit, and may also from time to time direct whether the Mahalkaris immediate superior shall, for the purposes of section 203 be deemed to be the Mamlatdar or the Assistant or Deputy Collector, or the Collector in charge of the taluka. When a defined portion of a taluka is placed in charge of a Mahalkari, such portion shall be called a mahal.

1. Deleted by Gujarat 15 of 1964.

14. Mamlatdar or Mahalkari may depute subordinates to perform certain of his duties :-

It shall be competent to a Mamlatdar or Mahalkari subject to such general orders as may from time to time be passed¹ [x x x] by the Collector, to employ any of his subordinates to perform any portion of his ministerial duties:

provided that all acts and orders of his subordinates when so employed shall be liable to revision and confirmation by such Mamlatdar or Mahalkari.

1. Deleted by Gujarat 15 of 1964.

15. Mamlatdar or Mahalkari in case of temporary vacancy :-

M.-If a Mamlatdar or Mahalkari is disabled from performing his duties or for any reason vacates his office, or leaves his taluka or mahal, or dies, such subordinates as may be designated by orders to be issued from time to time in this behalf by the Collector, shall succeed temporarily to the said Mamlatdar's or Mahalkari's office, and shall be held to be the Mamlatdar or Mahalkari under this Act until the Mamlatdar or Mahalkari resumes charge of his taluka or mahal or until such time as a successor is duly appointed and takes charge of his appointment.

16. Stipendiary Patel and Village-Accountant to be appointed where no hereditary Patel or Village-Accountant exists. :-

1.

²[(1)] It shall be lawful for the State Government to appoint a

village accountant for a village or a group of villages. In villages where no hereditary patel exists, it shall be lawful for the State Government to appoint a stipendiary patel. The village accountant and the patel shall perform all the duties including the duties of village accountant or hereditary patel as hereinafter prescribed by this Act or any other law for the time being in force and shall hold their situations under the rules in force with regard to subordinate revenue officers. Nothing in this section shall be held to affect any subsisting rights of holders of alienated villages or others in respect of the appointment of patel and village accountants in any alienated or other villages.

3 [x x x]

1. Substituted by Bombay 60 of 1950.
2. Re-numbered by Bombay 28 of 1956.
3. Deleted by Gujarat 35 of 1965.

17. Village-Accountant to keep such records as he may be :-

Subject to the general orders of the State Government¹ [x x x] the Collector shall prescribe from time to time what registers, accounts, and other records shall be kept by the Village Accountant. required to keep by the Collector and to prepare public writings.-It shall also be the duty of the Village Accountant to prepare, whenever called upon by the Patel of his village or by any superior Revenue or Police officer of the taluka or district to do so, all writings connected with the concerns of the village which are required either for the use of the Central or the State Government or the public, such as notices, reports of inquests, and depositions and examinations in criminal matters.

1. Deleted by Gujarat 15 of 1964.

18. Survey Officers :-

For the purposes of Chapters VIII, VIII-A, IX and X the State Government may appoint such officers as may from time to time appear necessary. Such officers shall be designated Settlement Commissioners "Commissioner of Survey", "Superintendent of Survey", "Survey Settlement Officers", "Settlement Officers" and "Assistant", or otherwise as may seem requisite and shall be subordinated the one to the other in such order as the State Government may direct. their duties and powers.-Subject to the orders of the State Government the officers so appointed are vested with the cognizance of all matters connected with survey

and settlement, and shall exercise all such powers and perform all such duties as may be prescribed by this or any other law for the time being in force.

19. Combination of offices :-

It shall be lawful for the State Government to appoint one and the same person, being otherwise competent according to law, to any two or more of the offices provided for in this Chapter or to confer upon an officer of one denomination all or any of the powers or duties of any other officer or officers within certain local limits or otherwise as may seem expedient.

20. Certain officers appointments to be notified. :-

The appointment of all officers mentioned in sections 4 to 13 and 18 and 19 shall be duly notified. Acting appointments.-Any officer appointed to act temporarily for any such officer shall exercise the same powers and perform the same duties as might be performed or exercised by the officer for whom he is so appointed to act.

21. . :-

Deleted]

22. Seals :-

The State Government shall from time to time by notification prescribe what revenue officers shall use a seal, and what size and description of seal shall be used by each of such officers.

CHAPTER 3

OF THE SECURITY TO BE FURNISHED BY CERTAIN REVENUE OFFICERS AND THE LIABILITY OF PRINCIPALS AND SURETIES.

23. . :-

Deleted].

24. . :-

Deleted].

25. Demands for money, papers, etc., to be made known in writing to the person concerned :-

The Collector or the Superintendent of Survey or any other officer, deputed by the Collector or Superintendent of Survey, for this purpose shall in all cases in which he may have a claim on any revenue officer or on any person formerly employed as such in his department or district for public money or papers or other property of the Government, by writing under his official seal, if he use one, and signature, require the money, or the particular papers or

property detained to be delivered either immediately to the person bearing the said writing, or to such person on such date and at such place as the writing may specify. who may be arrested and confined in jail if he fails to produce them.-If the officer or other person aforesaid shall not discharge the money, or deliver up the papers or property as directed, he may cause him to be, apprehended, and may send him with a warrant, in the form of Schedule C to be confined in the civil jail till he discharges the sums or delivers up the papers or property demanded from him:

Provided that no person shall be kept in confinement for more than a month.-Provided that no person shall be detained in confinement by virtue of any such warrant for a longer period than one calendar month.

26. Public moneys may also be recovered as arrears of revenue; and search warrant may be issued for recovery of papers or property :-

The Collector of his own motion, if the officer or other person is or was serving in his department and district, and upon the application of the Superintendent of Survey if such officer or person is or was serving in the survey department in his district, may also take proceedings to recover any public moneys due by him in the same manner and subject to the same rules as are laid down in his Act for the recovery of arrears of land revenue from defaulters, and for the purposes of recovering public papers or other property of the Government may issue a search warrant and Exercise all such powers with respect thereto as may be lawfully exercised by a Magistrate under the provisions of Chapter VII of the Code of Criminal Procedure. Persons in possession of public moneys, etc., bound to give them up.-It shall be the duty of all persons in possession of such public moneys, papers or other property of the Government to make over the same forthwith to the Collector, and every person knowing where any such property is concealed shall be bound to give information of the same to the Collector.

27. Surety to be liable in the same manner as principal :-

The surety or sureties of such officer or other person as is aforesaid, shall be liable to be proceeded against jointly and severally in the same manner as his or their principal is liable to be proceeded against, in case of default, and notwithstanding such principal may be so proceeded against: Extent of liability.-Provided always that in any case of failure to discharge or make good any

sum of money due to the Government or to produce any property of the Government of ascertained value no greater sum than is sufficient to cover any loss or damage which the State Government may actually sustain by the default of the principal shall be recovered from the surety or sureties as the amount which may be due from such surety or sureties under the terms of the security bond executed by him or them: Sureties not liable to imprisonment, if penalty be paid.- And provided also that the said surety or sureties shall in no case be liable to imprisonment in default of producing public papers or property, if he or they pay into the Government treasury the whole or such part of the penalty named in the bond as may be demanded.

28. An officer or surety in jail may, by furnishing certain security, obtain his release :-

If an officer or other person as aforesaid or his surety or sureties against whom a demand is made, shall give sufficient security in the form of Schedule D, the Collector shall cause such officer or surety if in custody to be liberated, and countermand the sale of any property that may have been attached, and restore it to the owner.

29. Liability of surety not affected by death of principal or by his taking a different appointment :-

The liability of the surety or sureties shall not be affected by the death of a principal or by his appointment to a situation different from that which he held when the bond was executed, but shall continue so long as the principal occupies any situation in which security is required and until his bond is canceled. Liability of heirs of deceased officer.-The heirs of a deceased officer shall be liable by suit in the Civil Court for any claims which the Government may have against the deceased, in the same way as they would be for similar claims made by an individual.

30. How surety may withdraw from further liability :-

Any surety, whether under a separate or joint bond, may withdraw from his surety ship at any time on his stating, in writing, to the officer to whom the bond has been given, that he desires so to withdraw; and his responsibility under the bond shall cease after sixty days from the date on which he gives such writing as to all demands upon his principal concerning moneys, papers or other property for which his principal may become chargeable after the expiration of such period of sixty days, but shall not cease as to

any demands for which his principal may have become liable before the expiration of such period, even though the facts establishing such liability may not be discovered till afterwards.

CHAPTER 4

OF CERTAIN ACTS PROHIBITED TO REVENUE OFFICERS, AND OF THEIR PUNISHMENT FOR MISCONDUCT

31. . :-

1 [x x x]

1. Omitted by A.O.L.O.C.

32. . :-

1 [x x x]

1. Omitted by A.O.L.O.C.

33. . :-

1 [x x x]

1. Omitted by A.O.L.O.C.

34. . :-

1 [x x x]

1. Omitted by A.O.L.O.C.

35. . :-

1 [x x x]

1. Omitted by A.O.L.O.C.

36. . :-

1 [x x x]

1. Omitted by A.O.L.O.C.

CHAPTER 5

OF LANDS AND LAND REVENUE

37. All public roads, etc., and all lands which are not the property of others belong to the Government. :-

(1) All public roads, lanes and paths, the bridges, ditches, dikes, and fences, on or beside, the same, the bed of the sea and of harbors and creeks below high water-mark, and of rivers, streams, nalas, lakes, and tanks, and all canals, and water-courses, and all standing and flowing water and all lands wherever situated, which are not the property of individuals, or of aggregates of persons

legally capable of holding property, and except in so far as any rights of such persons may be established, in or over the same, and except as may be otherwise provided in any law for the time being in force are and are hereby declared to be, with all rights, in or over the same or appertaining thereto, the property of the Government, and it shall be lawful for the Collector subject to the orders of the¹[State Government], to dispose of them in such manner as he may deem fit, or as may be authorized by general rules sanctioned by² [the Government concerned], subject always to the rights of way, and all other rights of the public or of individuals legally subsisting.

Explanation.-In this section "high-water-mark" means the highest point reached by ordinary spring-tides at any seasons of the year.

(2) Where any property or any right in or over any properties is claimed by or on behalf of the Government or by any person as against the Government, it shall be lawful for the Collector or a survey officer, after formal inquiry of which due notice has been given, to pass an order deciding the claim.

(3) Any suit instituted in any Civil Court after the expiration of one year from the date of any order passed under sub-section (1) or sub-section (2), or, if one or more appeals have been made against such order within the period of limitation, then from the date of any order passed by the final appellate authority, as determined according to section 204, shall be dismissed (although limitation has not been set up as a defence) if the suit is brought to set aside such order or if the relief claimed is inconsistent with such order, provided that in the case of an order under sub-section (2) the plaintiff has had due notice of such order.

(4) Any person shall be deemed to have had due notice of an inquiry or order under this section if notice thereof has been given in accordance with rules made in this behalf by the State Government.

1. Substituted by Gujarat 15 of 1964

2. Substituted by Gujarat 15 of 1964

37A. Extinction of rights of public and individuals in or over any public road, lane or path not required for use of public :-

(1) Whenever it appears to the State Government that any public

road, lane or path which is the property of the State Government or part thereof, is not required for the use of the public the State Government, may, by a notification published in the Official Gazette, make declaration to such effect, stating in such declaration that it is proposed that the rights of the public as well as of all individuals in or over any such road, lane or path, or part thereof, as the case may be, shall be extinguished. On the publication of such notification, the Collector shall, as soon as possible, cause public notice of such declaration to be given at convenient places on, or in the vicinity of, such road, lane or path, or part thereof, as the case may be. Such declaration and notice shall specify, as far as practicable the situation and limits of such road, lane or path, or part thereof, and shall invite objections to the aforesaid proposal.

(2) Any member of the public or any person having any interest or right in addition to the right of public high way, in or over such road, lane or path, or part thereof, or having any other interest or right which is likely to be adversely affected by the proposal may, within ninety days after the issue of the notification under sub-section (1) state to the Collector in writing his objections to the proposal the nature of such interest or right and the manner in which it is likely to be adversely affected, and the amount and particulars of his claim to compensation for such interest or right:

Provided that the Collector may allow any person to make such a statement after the period of ninety days after the issue of the notification under sub-section (1) if he is satisfied that such person had sufficient cause for not making it within the said period.

(3) The Collector shall give every person who has made a statement to him under sub-section (2) an opportunity of being heard either in person or by pleader and shall after hearing all such persons in such manner and after making such further inquiry, if any, as he thinks necessary, determine the amount of compensation, if any, which should, in his opinion, be given in any case in respect of any substantial loss or damage likely to be caused by the proposed extinction of the rights of the public as well as of individuals as aforesaid. The provisions of sections 9, 10, 11, 12, 13, 14 and 15 of the Land Acquisition Act, 1894 (I of 1894), shall, so far as may be apply to the proceedings held by the Collector for the determination of the amount of compensation under this sub-section:

Provided that no compensation shall be awarded for the extinction or diminution of the right of public high way over such road, lane or path, or part thereof.

(4) The Collector shall submit to the¹[State Government] the record of the proceedings held by him with report containing his recommendations on the objections, if any, received by him and stating the amounts of compensation if any, which, in his opinion, are payable to any persons.

(5) If the²[State Government] is satisfied after considering the record of the proceedings and the report, if any, made under sub-section (4), that the public road, lane or path, or part thereof specified in the notification under sub-section (1) is not required for the use of the public, a declaration shall be published in the Official Gazette that all rights of the public as well as of individuals in or over such road, lane or path, or part thereof are extinguished; and all such rights shall thereupon be extinguished, and such road, lane or path, or part thereof shall be at the disposal of the Government with effect from the date of such declaration.

(6) The decision of the Collector regarding the amount of compensation and the person to whom such compensation, if any, is payable, shall subject to any modification made by the³ [State Government], be final; and payments shall be made by the Collector to such persons accordingly.

1. Substituted by Gujarat 15 of 1964.

2. Substituted by Gujarat 15 of 1964.

3. Substituted by Gujarat 15 of 1964.

38. Lands may be assigned for special purposes and when assigned shall not be otherwise used without sanction of the Collector :-

Subject to the general orders of the State Government, it shall be lawful for survey officers whilst survey operations are proceeding under Chapter VIII, and at any other for the Collector to set apart lands the property of the State Government and not in the lawful occupation of any person or aggregate of persons, in unalienated villages or unalienated portions of villages, for free pasturage for the village cattle, for forest reserves, or for any other public or municipal purpose; and lands assigned specially for any such purpose shall not be otherwise used without the sanction of the Collector; and in the disposal of land under section 37 due regard

shall be had to all such special assignments.

39. Regulation of use of pasturage :-

The right of grazing on free pasturage-lands shall extend only to the cattle of the village or villages to which such lands belong or have been assigned, and shall be regulated by rules to be from time to time, either generally or in any particular instance, prescribed by the Collector with the sanction of the¹ [State Government], The Collector's decision in any case of dispute as to the said right of grazing shall be conclusive.

1. Substituted by Gujarat 15 of 1964.

39A. Recovering value of natural products unauthorisedly removed from certain lands :-

¹ Any person who shall unauthorisedly remove from any land which is set apart for a special purpose or from any land which is the property of Government, any natural product shall be liable to the Government for the value thereof, which shall be recoverable from him as an arrear of land revenue. The decision of the Collector as to the value of any such natural product shall be conclusive.]

1. Inserted by Bombay 14 of 1955.

40. Concession of Government rights to trees in case of settlements completed before the passing of this Act. :-

In villages, or portions of villages, of which the original survey settlement has been completed before the passing of this Act, the right of the Government to all trees in unalienated land, except trees reserved by the Government or by any survey officer, whether by express order made at or about the time of such settlement, or under any rule, or general order in force at the time of such settlement, or by notification made and published at or at any time after, such settlement, shall be deemed to have been, conceded to the occupant. But in the case of settlement completed before the passing of Bombay Act I of 1865 this provision shall not apply to teak, black-wood or sandal-wood trees. The right of the Government to such trees shall not be deemed to have been conceded, except by clear and express words to that effect. Concession of Government rights to trees in case of settlements completed after the passing of this Act.-In the case of villages or portions of villages of which the original survey settlement shall be completed after the passing of this Act, the right of the Government to all trees in unalienated land shall be deemed to be

conceded to the occupant of such land except in so far as any such rights may be reserved by the Government, or by any survey officer on behalf of the Government either expressly a or about the time of such settlement, or generally by notification made and published at any time previous to the completion of the survey settlement of the district in which such village or portion of a village is situate. Concession of Government rights to trees in case of land taken up after completion of settlement.-When permission to occupy land has been, or shall hereafter be, granted after the completion of the survey settlement of the village or portion of a village in which such land is situate the said permission shall be deemed, to include the concession of the right of the Government to all trees growing on that land which may not have been, or which shall not hereafter be, expressly reserved at the time of granting such permission, or which may not have been reserved, under any of the foregoing provisions of this section, at or about the time of the original survey settlement of the said village or portion of a village.

1 [Explanation.-In the second paragraph of this section, the expression "In the case of villages or portions of villages of which the original survey settlement shall be completed after the passing of this Act" shall include cases where the work of the original survey settlement referred to therein was undertaken before the passing of this Act as well as cases where the work of an original survey settlement may be undertaken at any time after the passing of this Act.]

1. Inserted by Bombay 3 of 1960.

41. Trees and forests vesting in the Government. :-

The right to all trees specially reserved under the provision of the last preceding section, and to all trees, brushwood, jungle, or other natural product growing on land set apart for forest reserves under section 32 of Bombay Act I of 1865 or sections 38 of this Act, and to all trees, brushwood, jungle or other natural product, wherever growing, except in so far as the same may be the property of individuals or of aggregates of individuals, capable of holding property, vests in the State Government; and such trees, brushwood. Jungle or other natural product shall be preserved or, disposed of in such manner as the State Government may from time to time direct.

42. Road side trees. :-

All road-side trees which have been planted and reared by, or, under the orders of, or at the expense of the Government and all trees which have been planted and reared at the expense of Local Fund, by the side of any road, which vests in the Government. But in the event of such trees dying or being blown down, or being cut down by order of the Collector, the timber shall become the property of the holder of the land in which they were growing; and the usufruct, including the lopping of such trees, shall also vest in the said holder; provided that the trees shall not be lopped except under the orders of the Collector.

43. Recovery of value of trees, etc., unauthorisedly appropriated. :-

Any person who shall unauthorisedly fell and appropriate any tree or any portion thereof or remove from his holdings any other natural product whether of the like description or not which is the property of the Government, shall be liable to the Government for the value thereof, which shall be recoverable from him as an arrear of land revenue in addition to any penalty to which he maybe liable under the provisions of this Act for the occupation of the land or otherwise; and notwithstanding any criminal proceedings which may be instituted against him in respect of his said appropriation of Government property. The decision of the Collector as to the value of any such tree, or portion thereof, or other natural product, shall be conclusive.

44. Regulation of supply of fire wood and timber for domestic or other purposes. :-

In villages or lands in which the rights of the Government to the trees have been reserved under section 40 subject to certain privileges of the villagers or of certain classes or persons to cut fire-wood or timber for domestic or other purposes and in lands which have been set apart under section 38 for forest reserves subject to such privileges and in all other cases in which such privileges exist in reaped of any alienated land, the exercise of the said privileges shall be regulated by rules to be from time to time either generally or in any particular instance, prescribed by the Collector or by such other officer as the State Government may direct. In any case of dispute as to the mode or time of exercising any Such privileges the decision of the Collector or of such other officer shall be conclusive.

45. All land liable to pay revenue unless specially exempted

:-

1[(1)] All land, whether applied to agricultural or other purposes, and wherever situate, is liable to the payment of land revenue to the Government according to the rules hereinafter enacted except such as may be wholly exempted under the provisions of any special contract with the Government or any law for the time being in force:

2[Provided that a small holder shall not be liable to pay land revenue in respect of the land held by him for the time being for the purpose of agriculture.] But nothing in this Act shall be deemed to affect the power of the Legislature to direct the levy of revenue on all lands under whatever title they may be held whenever and so long as the exigencies of the State may render such levy necessary.

3 [(2) As soon as may be after the coming into force of the Bombay Land Revenue and the Gujarat Panchayats and Education Cess (Amendment) Act, 1972 (Gujarat 25 of 1972), every Mamlatdar shall, in respect of each of the villages in his taluka, prepare and thereafter keep and maintain, in the prescribed manner and form an up-to-date corrected list of small holders not liable to pay land revenue under this section and for that purpose shall, from time to time, amend, delete or add any entry in that list. In order to enable the Mamlatdar to so prepare, keep and maintain such list, every person who is or becomes a small holder shall, of his own accord or on being required by the Mamlatdar to do so by a general or special notice to be issued in the prescribed manner, furnish to the Mamlatdar within whose jurisdiction the land held by him is situate within the prescribed period, such particulars as may be prescribed and thereafter inform the Mamlatdar about any changes that may take place in such particulars from time to time. The Mamlatdar shall, after receiving such particulars and after making such inquiry as he thinks fit, make, or as the case may be, amend, delete or add, any entries in the list:

Provided that the absence or the inclusion of the name of any person from or in such list shall not by itself be conclusive evidence as to the liability or non-liability of any such person as regards the payment of land revenue.

(3) The list referred to in sub-section (2) shall be open to

inspection in the office of the Mamlatdar during office hours and shall be published by the Mamlatdar in the prescribed manner and at prescribed intervals, by the Mamlatdar in the prescribed manner and at prescribed intervals.

Explanation.-In this section, "small-holder" means a holder in actual Possession of land who cultivates less than one-sixteenth of the ceiling area as defined in the Gujarat Agricultural Lands Ceiling Act, 1960 [Gujarat XXVI of 1961] as in force on the 1st August 1972 and who earns his livelihood principally by agriculture or by agricultural labour.]

1. Re-numbered by Gujarat 25 of 1972.
2. Inserted by Gujarat 25 of 1972.
3. Inserted by Gujarat 25 of 1972.

46. Liability of alluvial lands to land revenue :-

All alluvial lands, newly-formed islands, or abandoned river-bed which vest, under any law for the time being in force in any holder of alienated land, shall be subject in respect of liability to the payment of land revenue to the same privileges, conditions, or restrictions as are applicable to the original holding in virtue of which such lands, islands, or river-beds so vest in the said holder, but no revenues shall be leviable in respect of any such lands, islands, or river-beds until or unless the area of the same exceeds half an acre and also exceeds one tenth of the area of the said original holding.

47. Assessment of land revenue in cases of diluvion :-

Every holder of land paying revenue in respect thereof shall be entitled, subject to such rules as may be from time to time made in this behalf by the State Government to a decrease of assessment if any portion thereof not being less than half an acre in extent, is lost by diluvion.

48. Manner of assessment and alteration of assessment :-

¹[(1) The land revenue leviable on any land under the provisions of this Act shall be assessed, or shall be deemed to have been assessed, as the case may be, with reference to the use of the land-

- (a) for the purpose of agriculture;
- (b) for the purpose of residence;

- (c) for the purpose of industry;
- (d) for the purpose of Commerce, or
- (e) for any other purpose.]

(2)²[Where land assessed for use for any purpose is permitted or deemed to have been permitted under section 65, or, as the case may be, under section 65-A, to be used for any other purpose, or is used for any other purpose without the permission of the Collector being first obtained or before the expiry of the period prescribed by section 65, or, as the case maybe, by section 65- A]. The assessment fixed under the provisions of this Act upon such land shall, notwithstanding that the term for which such assessment may have been fixed has not expired, be liable to be altered and fixed at a different rate³[with effect from the commencement of the revenue year in which the land is so permitted or deemed to have been permitted to be use or, as the case may be, is used without the permission of the Collector] by such authority and subject to such rules as the State Government may prescribe in this behalf.

⁴ [(2-A) Where any land assessed for any purpose is used for a bonafide industrial purpose under section 65-B and a certificate to that effect is issued to the occupant of such land under that section, the assessment fixed under the provisions of this Act upon such land shall, notwithstanding that the term for which such assessment may have been fixed has not expired, be liable to be altered and fixed at a different rate with effect from the commencement of the revenue year in which the use of land for a bonafide industrial purpose is commenced, by such authority and subject to such rules as the State Government may prescribe in this behalf]

(3) Where land held free of assessment on condition of being used for any purpose is used at any time for any other purpose, it shall be liable to assessment.

(4) The Collector or a survey officer may, subject to any rules made in this behalf under section 214, prohibit the use for certain purposes of any unalienated land liable to the payment of land revenue, and may summarily evict any holder who uses or attempts to use the same for any such prohibited purpose].

2. Substituted by Presi. Act 26 of 1976.
3. Inserted by Presi. Act 26 of 1976.
4. Inserted by Gujarat 6 of 1997, w.e.f. 24-12-1996.

49. Commuted assessment of land indirectly taxed to the State :-

When it has been customary to levy any special or extra cess, fine, or tax, however designated, from any holder of land, which, though nominally, wholly or partially exempt from the payment of land revenue, has by the exaction of such cess, fine or tax been indirectly taxed to the State, And of land liable to occasional assessment-or when any land ordinarily, or under certain circumstances, wholly or partially exempt from assessment, is subject occasionally, or under particular circumstances, to the payment of assessment, or of any cess or tax however designated, the said assessment, cess, fine, or tax may be commuted into an annual assessment on the land to be paid under all circumstances, but such commuted assessment shall not exceed such amount as the¹ [Collector] shall deem to be a fair equivalent of the assessment, cess, fine or tax for which it is substituted and shall not be in excess of the assessment to which the land would be ordinarily subject, if no right to exemption existed in respect thereof.

1. Substituted by Bombay 28 of 1950.

50. Superior holder may recover commuted assessment from inferior holder :-

Whenever, any such cess, fine or tax hitherto payable by any inferior holder shall be made leviable from the superior holder, it shall be lawful for such superior holder to recover from such inferior holder the amount of the commuted assessment fixed in lieu of such cess, fine or tax.

51. Excess of assessment may be laid on land inadequately assessed held with it :-

When it has been customary to levy a larger revenue under the name "veta" or any other designation, upon any portion of land than such portion would ordinarily be liable to in consideration of other land being held with it which is wholly or partially exempt from payment of revenue, the excess of revenue payable on the said portion of land may be charged upon the land hitherto held wholly or partially exempt.

52. Assessment by whom to be fixed. :-

1(1) On all lands which are not wholly exempt from the payment of land revenue, and on which the assessment has not been fixed under the provisions of Chapter VIII_A, the assessment of the amount to be paid as land revenue shall, subject to rules made in this behalf under section 214, be fixed at the discretion of the Collector, for such period²[not exceeding ninety-nine years] as he may, be authorised to prescribe, and the amounts due according to such assessment shall be levied on all such lands:

3[x x x] Provided that in the case of lands partially exempt from land revenue, or the liability of which to payment of land revenue is subject to special conditions or restrictions, respect shall be had in the fixing of the assessment and the levy of the revenue to all rights legally subsisting, according to the nature of the said rights:

4[Provided further that where any land which was wholly or partially exempt from payment of land revenue has ceased to be so exempt, it shall be lawful for the Collector to fix the assessment of the amount to be paid as land revenue on such land with effect from the date on which such land ceased to be so exempt or any subsequent date as he may deem fit.]

5[(2) After the expiry of the period for which the assessment of any land is fixed under sub-section (1), the Collector may from time to time, revise the same in accordance with the rules made in this behalf by the State Government. The assessment so revised shall be fixed each time for such period not exceeding ninety nine years as the State Government may, by general or special order, specify:]

6 [Provided that where any land has been assessed for a purpose other than agriculture but the assessment of the amount to be paid as land revenue on such land has been fixed without fixing a period therefor, it shall be lawful for the Collector to revise the assessment of such land under this sub-section at any time after the expiry of a period of ten years from the date on which the assessment of the amount was so fixed and for calculating the aforesaid period of ten years, the period elapsed before the commencement of the Bombay Land Revenue (Extension to Kutch Area and Amendment) Act, 1965 (Gujarat 35 of 1965) may be taken into account.

1. Re-numbered by Bombay 35 of 1948.
2. Inserted by Bombay 35 of 1948.

3. Deleted by Bombay 28 of 1956.
4. Inserted by Bombay 28 of 1956.
5. Inserted by Bombay 35 of 1948.
6. Added by Gujarat 35 of 1965.

53. Register of alienated lands. :-

A Register shall be kept by the Collector in such form as may from time to time be prescribed by the State Government of all lands, the alienation of which has been established or recognised under the provisions of any law for the time being in force; and when it shall be shown to the satisfaction of the Collector that any sanad granted in relation to any such alienated lands has been permanently lost or destroyed, he may, subject to the rules and the payment of the fees prescribed by the State Government under section 213, grant to any person whom he may deem entitled to the same a certified extract from the said Register, which shall be endorsed by the Collector to the effect that it has been issued in lieu of the sanad said to have been lost or destroyed, and shall be deemed to be as valid a proof of title as the said sanad.

54. Settlement of assessment to be made with the holder directly from State Government. :-

The settlement of the assessment of each portion of land, or survey number, to the land revenue, shall be made with the person who, under section 136, is primarily responsible to the State Government for the same.

55. Rates for the use of water. :-

The State Government may authorise the Collector or the officer in charge of a survey or such other officer as it deems fit to fix such rates as it may from time to time deem fit to sanction, for the use, by landholders and other persons, of water, the right to which vests in the Government, and in respect of which no rate is leviable under the Bombay Irrigation Act, 1879. Such rates shall be liable to revision at such periods as the State Government shall from time to time determine, and shall be recoverable as land revenue.

56. Land revenue to be a paramount charge on the land. :-

Arrears of land revenue due on account of land by any landholder shall be a paramount charge on the holding and every part thereof, failure in payment of which shall make the occupancy or alienated holding together with all rights of the occupant or holder over all trees, crops, buildings and things attached to the land or permanently fastened to anything attached to the land, liable to

forfeiture, whereupon the Collector may levy all sums in arrears by sale of the occupancy or alienated holding, or may otherwise dispose of such occupancy or alienated holding under rules made in this behalf under section 214, and such occupancy or alienated holding when disposed of, whether by sale as aforesaid, or by respiration to the defaulter, or by transfer to another person or otherwise howsoever, shall unless the Collector otherwise directs, be deemed to be freed from all tenures, rights, encumbrances and equities therefore created in favour of any person other than the Government in respect of such occupancy or holding.

57. Forfeited holdings may be taken possession of and otherwise disposed. :-

It shall be lawful for the Collector in the event of the forfeiture of a holding through any default in payment or other failure occasioning such forfeiture under the last section or any law for the time being in force, to take immediate possession of such holding, and to dispose of the same by placing it in the possession of the purchaser or other person entitled to hold it according to the provisions of this Act or any other law for the time being in force.

58. Receipts. :-

(1) Every revenue officer and every hereditary patel and every¹[village accountant] receiving payment of land revenue²[shall, at the time when such payment is received by him, give] a written receipt for the same.

(2) Every superior holder of an alienated village or of an alienated share of a village who is entitled to recover direct from an inferior holder any sum due on account of rent or land revenue³[shall, at the time when such sum is received by him, give] to such inferior holder a written receipt for the same.

(3) Every hereditary patel and⁴[accountant] who receives, in behalf of a superior holder of an alienated village or of an alienated share of a village, any rent or land revenue from an inferior holder⁵[shall, at the time when such rent or land revenue is received by him, give] to such inferior holder a written receipt for the same. Such receipts shall be a full discharge to such inferior holder for such rent or land revenue as against such superior holder. A copy of such receipts shall in every case, be sent to the superior holder by such patel or accountant.

1. Substituted by Bombay 60 of 1950.
2. Substituted by Bombay 53 of 1949.
3. Substituted by Bombay 53 of 1949.
4. Substituted by Bombay 60 of 1950.
5. Substituted by Bombay 53 of 1949.

59. Penalty for failure to grant receipts. :-

Any person convicted of a breach of the provisions of the last preceding section after summary inquiry before the Collector shall be liable to a fine not exceeding three times the amount received for which a receipt was not duly granted¹ [or Rs. 100] and one-half of the fine may, at the discretion of the Collector, be paid to the informer if any. Such inquiry may at any time be instituted by the Collector of his own motion without any complaint being preferred to him.

1. Inserted by Bombay 29 of 1939.

CHAPTER 6

OF THE GRANT, USE AND RELINQUISHMENT OF UNALIENATED LAND

60. Written permission of Mamlatdar or Mahalkari required previous to taking up unoccupied land. :-

Any person desirous of taking up unoccupied land which has not been alienated must, previously to entering upon occupation obtain the permission in writing of the Mamlatdar or Mahalkari.

61. Penalties for unauthorized occupation of land. :-

Any person who shall unauthorisedly enter upon occupation of any land set apart for any special purpose, or any unoccupied land which has not been alienated, and any person who uses or occupies any such land to the use or occupation of which by reason of any of the provisions of this Act he is not entitled or has ceased to be entitled shall, if the land which he unauthorisedly occupies forms part of an assessed survey number, pay the assessment of the entire number for the whole period of his unauthorized occupation, and if the land so occupied by him has not been assessed, such amount of assessment as would be leviable for the said period in the same village on the same extent of similar land used for the same purpose; and shall also be liable, at the discretion of the Collector, to a fine not exceeding five rupees, or a sum equal to ten times the amount of assessment payable by him for one year, if such sum be in excess of five rupees, if he has taken up the land for purposes of cultivation, and not exceeding such limit as may be fixed in rules made in this behalf under section 214, if he has used

it for any non-agricultural purpose. The Collector's decision as to the amount of assessment payable for the land unauthorisedly occupied shall be conclusive, and in determining its amount occupation for a portion of a year shall be counted as for a whole year. The person unauthorisedly occupying any such land may be summarily evicted by the collector, and any crop raised in the land shall be liable to forfeiture, and any building, or other construction, erected thereon shall also, if not removed by him after such written notice as the Collector may deem reasonable, be liable to forfeiture, or to summary removal. Forfeitures under this section shall be adjudged by the Collector, and any property so forfeited shall be disposed of as the Collector may direct and the cost of the removal of any encroachment under this section shall be recoverable as an arrear of land revenue.

62. Unoccupied land may be granted on conditions. :-

It shall be lawful for the Collector subject to such rules as may from time to time be made by the State Government in this behalf, to require the payment of a price for unalienated land or to sell the same by auction and to annex such conditions to the grant as he may deem fit, before permission to occupy is given under section 60. The price (if any) paid for such land shall include the price of the Government right to all trees not specially reserved under the provisions of section 40 and shall be recoverable as an arrear of land revenue.

63. Grant of alluvial land vesting in the Government. :-

When it appears to the Collector that any alluvial land, which vests under any law for the time being in force in the State Government, may with due regard to the interests of the public revenue be disposed of, he shall offer the same to the occupant (if any) of the bank or shore on which such alluvial land has formed. The price of the land so offered shall not exceed three times the annual assessment thereof. If the said occupant shall refuse the offer, the Collector may dispose of the land without any restrictions as to the price to be asked. For the purpose of this section, notwithstanding anything contained in section 3, if the bank or shore has been mortgaged with possession, the mortgagor shall be deemed to be the occupant thereof.

64. Temporary right to alluvial lands of small extent. :-

When alluvial land forms on any bank or shore, the occupant, if any, of such bank or shore shall be entitled to the temporary used

thereof unless or until the area of the same exceeds one acre. When the area of the alluvial land exceeds the said extent, it shall be at the disposal of the Collector subject to the provisions of the last preceding section.

65. Uses to which occupant of land for purposes of agriculture may put his land. :-

1[(1)] Any occupant of land assessed or held for the purpose of agriculture is entitled by himself his servants tenants, agents, or other legal representatives, to erect farm-buildings, construct wells or tanks, or make any other improvements thereon for the better cultivation of the land, or its more convenient use for the purpose aforesaid. Procedure if occupant wishes to apply his land to any other purpose.-But, if any occupant wishes to use his holding or any part thereof for any other purpose the Collector's permission shall in the first place be applied for by the occupant. The Collector, on receipt of such application,

(a) shall send to the applicant a written acknowledgment of its receipt, and

(b) may, after due inquiry, either grant or refuse the permission applied for:

2 [(2)] Notwithstanding anything contained in sub-section (1) but subject to any terms and conditions laid down by the State Government in this behalf, where an occupant has his holding in an area comprising a gram and such area is not within an urban agglomeration or within a radius of five kilometers from the limits of a municipal borough or notified area or industrial estate and such occupant wishes to use his holding or apart thereof only for a residential purpose, it shall not be necessary for him to obtain permission of the Collector under sub-section (1).

Explanation. -For the purposes of this section-

(i) "gram" means a gram within the meaning of the Gujarat Panchayats Act, 1961 (VI of 1962);

(ii) "industrial estate" means an industrial estate within the meaning of the Gujarat Industrial Development Act, 1962 (XXIII of 1962);

(iii) "municipal borough" or "notified area" means respectively, a

municipal borough or a notified area within the meaning of the Gujarat Municipalities Act, 1963 (34 of 1964);

(iv) "urban agglomeration" means an urban agglomeration within the meaning of the Urban Land (Ceiling and Regulation) Act, 1976 (33 of 1976)]

1. Re-numbered by Bombay 16 of 1989.

2. Inserted by Gujarat 16 of 1989.

65A. Procedure if occupant wishes to apply his land from one non-agricultural purpose to another non-agricultural purpose. :-

1 Where the occupant of any land assessed or held for any non-agricultural purpose wishes to use such land or part thereof for any other non agricultural purpose, the Collector's permission shall in the first place be applied for by him and the provisions of section 65 shall, so far as may be, apply to such application.

Explanation.-In this section, and in section 67-A, "non-agricultural purpose" means any of the purposes specified in clauses (b) to (e) of sub-section (1) of section 48.]

1. Inserted by Presi. Act 26 of 1976.

65B. Use of certain lands for bonafide industrial purpose. :-

1

(1) Notwithstanding anything contained in section 65 or 65-A, where-

(a) any land used or held for the purpose of agriculture or, as the case may be, for any non-agricultural purpose not being an industrial purpose is,-

(i) designated for the use of industrial purpose in the draft or final development plan or draft or final town planning scheme under the Gujarat Town Planning and Urban Development Act, 1976; or

(ii) situated in the area where no plan or scheme referred to in sub-clause (i) is in force and is designated by the State Government, by notification in the Official Gazette, for the use of such industrial purpose as may be specified therein, having regard to such factors as may be prescribed by rules made under this Act in this behalf:

Provided that nothing in this sub-clause shall render invalid the use of land for a bonafide industrial purpose in pursuance of the

provisions of the Bombay Land Revenue (Gujarat Amendment) (Second) Ordinance, 1996 during the period when the said Ordinance was in force notwithstanding that the said land is not designated for such use under this Act, and

(b) the occupant of such land wishes to use such land or part thereof-

(I) for a bonafide industrial purpose other than the purpose of manufacture or storage of any chemical or petrochemical, it shall be lawful for him to use such land for such bonafide industrial purpose without the permission of the Collector subject to the fulfillment of the following conditions, namely:-

(a) the occupant has a clear title to such land,

(b) such land or part thereof,-

(i) is not shown as reserved for a public purpose in draft or final development plan or draft or final town planning scheme under the Gujarat Town Planning and Urban Development Act, 1976, (Presi. Act 27 of 1976),

(ii) is not notified for acquisition under the Land Acquisition Act, 1894 (I of 1894) or any other law for the time being in force,

(iii) does not fall within the alignment of any road plan prepared by the State Government or the command area of any irrigation project,

(iv) is not situated within thirty metres from the boundary of any land held for the purpose of railway by the Central Government or the Indian Railway Company Ltd., or

(v) is not situated within fifteen metres of the high voltage transmission line;

(vi) is not situated within five kilometers of the periphery of the area within the jurisdiction of any Area Development Authority or Urban Development Authority constituted under the Gujarat Town Planning and Urban Development Act, 1976 (Presi. Act 27 of 1976):

Provided that nothing in this item shall render invalid the use of land for a bonafide industrial purpose in pursuance of the provisions of the Bombay Land Revenue (Gujarat Amendment) (Second) Ordinance, 1996 (Gujarat Ord. 20 of 1996) when the said

Ordinance was in force notwithstanding that the said land falls within five kilometers of the periphery of the area within the jurisdiction of any Area Development Authority or Urban Development Authority.

(II) for the purpose of manufacture or storage of any chemical or petrochemical, it shall be lawful for him to use such land for such bonafide industrial purpose without the permission of the Collector subject to the fulfillment of the following conditions, in addition to the conditions mentioned in sub-clause (I), namely:- such land or part thereof is not situated within two kilometers from the boundary of,-

(i) an ancient monument declared as 'protected monument' under sub-section (1) of section 3 of the Ancient Monuments Preservation Act, 1904 (7 of 1904);

(ii) an ancient and historical monument declared as 'protected monument' under sub-section (3) of section 4 of the Gujarat Ancient Monuments and Archaeological Sites and Remains Act 1965 (Gujarat 25 of 1965):

(iii) a forest land or waste land declared as 'reserved forest land' under section 3 of the Indian Forest Act, 1927 (XVI of 1927);

(iv) a forest land or waste land known as 'protected forest' under section 29 of the Indian Forest Act, 1927 (XVI of 1927);

(v) an area declared as 'sanctuary' under sub-section (1) of section 18 of the Wild Life (Protection) Act, 1972 (53 of 1972); or

(vi) an area declared as 'national park' under section 35 of the Wild Life (Protection) Act. 1972 (53 of 1972).

(2)

(a) The occupant shall comply with the provisions of any law for the time being in force or any order or direction of the Central Government or State Government or any Corporation owned or controlled by such Government, Government Company, local authority in relation to use of land for a bonafide industrial purpose under sub-section (1) before the land is put to use for such purpose.

(b) Where an occupant commences the use of the land for a bonafide industrial purpose under sub-section (1), he shall within

thirty days from the date of commencement of the use of land for a bonafide industrial purpose, send a notice of the date of commencement of such use, alongwith other particulars in such form as may be prescribed by rules made under this Act, to the Collector and endorse a copy thereof to the Mamlatdar.

(3) Where, on the receipt of such notice alongwith other particulars sent by the occupant under clause (b) of sub-section (2), the Collector, after making such inquiry as he deems fit-

(a) is satisfied that the occupant of such land has validly commenced the use of the land for a bonafide industrial purpose under sub-section (1), he shall issue a certificate to that effect to the occupant in such form and within such period as may be prescribed by rules made under this Act,

(b) is not so satisfied, he shall, after giving the occupant an opportunity of being heard, refuse to issue such certificate:

Provided that no such certificate shall be issued under clause (a) unless the conversion tax leviable under section 67-A is paid.

(4)

(a) Where the occupant fails to send the notice and other particulars under clause (b) of sub-section (2) within the period specified therein, he shall be liable to pay, in addition to the non-agricultural assessment leviable under this Act, such fine not exceeding ten thousand rupees as the Collector may, subject to rules made under this Act, direct.

(b)

(i) Where the occupant commences the use of such land for industrial purpose despite the non-fulfillment of any of the conditions specified in sub-section (1), or

(ii) where certificate is refused to the occupant under clause (b) of sub-section (3), he shall be liable, in addition to the payment of non-agricultural assessment leviable under this Act, to restore such land to its original use within such period as the Collector may specify in a notice served on such occupant in this behalf.

(c) Where such occupant does not restore the land to its original use within the period specified by the Collector in the notice served under clause (b),-

(i) he shall be liable to pay such fine not exceeding five thousand rupees and in addition, such daily fine not exceeding one hundred rupees per hectare or part thereof of land not so restored for each day during which such land is not restored to its original use, after the expiry of the period specified in such notice as the Collector may, subject to rules made under this Act, direct, and

(ii) the Collector shall take such steps as he thinks fit to get such land restored to its original use and collect the cost incurred in this behalf from such occupant as an arrear of land revenue.

(5)

(a) The occupant shall commence industrial activity on such land within three years from the date of the notice sent by him to the Collector under clause (b) of sub-section (2) and commence production of goods or providing of services on such land within five years from such date:

Provided that the period of three years or, as the case may be, five years may, on an application made by the occupant in that behalf, be extended from time to time by the Collector in such circumstances as may be prescribed by rules made under this Act.

(b) Where the occupant fails to commence industrial activity or production of goods or providing of services within the period specified in clause (a) or the period extended under the proviso to clause (a), he shall be liable to pay, in addition to non- agricultural assessment leviable under section 48, non- agricultural assessment at the rate of five rupees per square metre of the land with effect from the date of expiry of the period of three years or five years or, as the case may be, the period extended under the proviso to clause (a) till he commences industrial activity or, as the case may be, commences production of goods or providing of services.

Explanation I.-For the purposes of this section, section 48 and section 67-A, the expression "bonafide industrial purpose" means an activity of manufacture, preservation or processing of goods, (other than the hazardous and toxic chemicals specified in Part II of the Schedule I to the Manufacture, Storages and Import of Hazardous Chemicals Rules, 1989 made under the Environment (Protection) Act, 1986 (29 of 1986) and for the time being in force) or any handicraft, or industrial business or enterprise, carried on by any person and includes construction of industrial buildings used for the manufacturing process or purpose, or power projects or port

projects and ancillary industrial usage like research and development, godown, canteen, office building of the industry concerned, or providing housing accommodation to the workers of the industry concerned, or establishment of industrial estate including a co-operative estate or service industry or tourism or cottage industry.

Explanation II.-For the purposes of this section, an occupant shall be deemed to have commenced the use of land for a bonafide industrial purpose from the date on which he ceases to use the land for agricultural or non-agricultural purpose existing immediately before the date of such cesser.]

1. Inserted by Gujarat 6 of 1997.

66. [Penalty for using land without permission. :-

¹ If any land referred to in section 65 or section 65-A be used for any purpose other than the purpose for which such land is assessed or held without the permission of the Collector being first obtained, or before the expiry of three months referred to in section 65 or despite refusal of permission during the said period of three months, then, without prejudice to the occupant's liability to pay the new assessment leviable under section 48 or the conversion tax leviable under section 67-A,-

(a) the occupant and any tenant or other person holding under or through him shall be liable to be summarily evicted by the Collector from the land so used and from the entire survey number or sub-division of the survey number of which it may form a part; and

(b) the occupant shall also be liable to pay for the period during which the said land has been so used, such fine as the Collector may, subject to the general orders of the State Government, direct], Any tenant of any occupant or any other person holding under or through an occupant, who shall without the occupant's consent use any such land for any such purpose, and thereby render the said occupant liable to the penalty aforesaid, shall be responsible to the said occupant in damages].

1. Substituted by Presi. Act 26 of 1976.

67. Permission may be granted on terms. :-

Nothing¹ [insections 65, 65-A and 66] shall prevent the granting of the permission aforesaid on such terms or conditions as may be prescribed by the Collector, subject to any rules made in this behalf

by the State Government.

1. Substituted by Presi. Act 26 of 1976.

67A. Payment of conversion tax by occupant for charge of use of land in certain areas. :-

1

(1) Where any land assessed or held for the purpose of agriculture and situated in an area specified in column (2) of the Table below (hereafter in this section referred to as the specified area)-

(a) is permitted, or deemed to have been permitted, under section 65, to be used for any other purpose; or

(b) is used for any other purpose without the permission of the Collector being first obtained or before the expiry of the period prescribed²[in that section, or]

3[(c) is used for a bonafide industrial purpose under section 65-B;

4[in column (3), (4), (5), (6) or (7)] as the case may be, of the said Table from the date on which such permission is, or is deemed to have been granted, or from the date on which the land is put to such use, whichever is earlier.

(2) Where any land assessed or held for any non-agricultural purpose (hereafter in this section referred to as the existing non-agricultural purpose) and situated in a specified area-

(a) is permitted or is deemed to have been permitted, under section 65-A, to be used for any other non-agricultural purpose; or

(b) is used for any other non-agricultural purpose without the permission of the Collector being first obtained or before the expiry of three months from the date of application for such permission, the occupant of such land shall be liable to pay to the State Government, a tax at such rate as is equivalent to the difference between the rate of tax applicable to the other non-agricultural purpose specified in the corresponding entry⁵[in column (3), (4), (5), (6) or (7)], as the case may be, of the Table below and the rate of tax applicable to the existing non-agricultural purpose specified in the said columns:

Provided that no tax shall be payable⁶[under this sub-section or under sub-section (2-A)] if the rate of tax applicable to the other non-agricultural purpose is lower than the rate applicable to the

existing non-agricultural purpose.

7 [(2-A) Where any land assessed or held for any non-agricultural purpose not being an industrial purpose (hereinafter referred to as "the existing non-agricultural purpose") and situated in a specified area is used for a bonafide industrial purpose under section 65-B, the occupant of such land shall be liable to pay to the State Government a tax at such-rate as is equivalent to the difference between the rate of tax applicable to the industrial purpose specified in the corresponding entry in column (6) of the Table below and the rate of tax applicable to the existing non-agricultural purpose specified in columns (3), (4) and (5) of the Table below.]

(3) The tax payable under this section shall be known as conversion tax and shall be payable by the occupant to such authority, in such manner and at such time as maybe prescribed by rules made under section 214.

1. Inserted by Presi. Act 26 of 1976.
2. Substituted by Gujarat 6 of 1997.
3. Inserted by Gujarat 6 of 1997.
4. Substituted by Gujarat 16 of 1989.
5. Substituted by Gujarat 16 of 1989.
6. Substituted by Gujarat 6 of 1997.
7. Inserted by Gujarat 6 of 1997.

68. Occupants rights are conditional. :-

An occupant is entitled to the use and occupation of his land for the period, if any, to which his tenure is limited, or if the period is unlimited, or a survey settlement has been extended to the land in perpetuity conditionally on the payment of the amounts due on account of the land revenue for the same, according to the provisions of this Act, or of any rules made under this Act, or of any other law for the time being in force, and on the fulfillment of any other terms or conditions lawfully annexed to his tenure:

Provided that nothing in this or any other section shall make it, or shall be deemed ever to have made it, unlawful for the Collector at any time to grant permission to any person to occupy any unalienated unoccupied land, for such period and on such conditions as he may, subject to rules made by the State Government in this behalf, prescribed, and in any such case the occupancy shall, whether a survey settlement has been extended to the land or not, be held only for the period and subject to the conditions so prescribed.

69. Reservation of right of the Government to mines and mineral products. :-

The right of the Government to mines and mineral products in all¹[x x x] land is and is hereby declared to be expressly reserved:

2 [x x x]

1. Deleted by Gujarat 8 of 1982.
2. Deleted by Gujarat 8 of 1982.

69A. Vesting of rights to mines and mineral and mineral products in the State Government. :-

1

(1) Notwithstanding anything contained in any custom, usage, grant, sanad or order or agreement or any law for the time being in force, or in any judgment, decree or order of a court or of other authority, with effect on and from the 1st may, 1960 all mines whether being worked or not and minerals whether discovered or not and all quarries which are situate within the limits of any land, granted or recognised under any contract, grant or law for the time being in force or decree of a court, shall vest in and with all rights over the same or appurtenant there to be the property of the State Government, and the State Government shall, subject to the provisions of the Mines and Minerals (Regulation and Development) Act, 1957 (Lxvii of 1957) have all powers necessary for the proper enjoyment and disposal of such rights.

(2) The rights of the Government to mines and mineral products in land reserved under Section 69 or the rights of the Government to mines, minerals and quarries vested under subsection (1) includes the right of access to land for the purpose of prospecting and working mines and the right to occupy such other lands as may be necessary for purposes of erection of offices, workmen's dwellings and machinery, the stacking of minerals and deposit of refuse, the construction of roads, railways, or tram-lines and any other purposes which the State Government may declare to be subsidiary to prospecting and working mines.

(3) If the State Government assigns to any person its rights over any mines, minerals quarries or mineral products and if for the proper enjoyment of such right, it is necessary that all or any of the powers specified in sub-sections (1) and (2) be exercised, the Collector may, by an order in writing subject to such conditions and reservations as he may specify, delegate such powers to the person

to whom the right is assigned.

(4) Any occupant, whose rights to mines, minerals or quarries in any land, existing immediately before the 1st May, 1960 have vested in the State Government on that date under sub-section (1), shall be entitled to compensation of an amount equivalent to the average of the net annual income received by the occupant in respect of the mines and mineral products during the three years immediately preceding the date of vesting.

(5

)(a) Any occupant entitled to compensation under sub-section (4) may apply to the Collector for such compensation in the form prescribed in this behalf by the State Government.

(b) Such application shall be made within twelve months from the date of the commencement of the Bombay Land Revenue Code and Land Tenure Abolition Laws (Gujarat Amendment) Ordinance, 1981 (Gujarat Ord. 9 of 1981) or such further period as may be prescribed by the State Government.

(c) The Collector, shall, after making such inquiry (including giving the applicant an opportunity of being heard) as he thinks necessary, determine the amount of compensation and the provisions of sections 9, 10, 11, 12, 13, 14 and 15 of the Land Acquisition Act, 1894 (I of 1894) shall so far as may be apply to the proceedings held by the Collector in this behalf.

(d) The decision of the Collector determining the amount of compensation shall subject to decision in an appeal to the Gujarat Revenue Tribunal be final, and payment shall be made by the Collector accordingly.

(6) The amount of compensation payable under this section shall be paid in cash with interest at the rate of 4.1/2 per cent. for the period commencing on and from the date of commencement of the Bombay Land Revenue Code and Land Tenure Abolition Laws (Gujarat Amendment) Ordinance, 1981 (Gujarat Ord. 9 of 1981) and ending on the date of payment.]

1. Inserted by Gujarat 8 of 1982.

70. Occupancy when not liable to process of Civil Court, the Court to give effect to Collectors certificate. :-

In any case where an occupancy is not transferable without the

previous sanction of the Collector, and such sanction has not been granted to a transfer which has been made or ordered by Civil Court or on which the Court's decree or order is founded.

(a) such occupancy shall not be liable to the process of any court, and such transfer shall be null and void, and

(b) the court, on receipt of a certificate under the hand and seal of the Collector, to the effect that any such occupancy is not transferable without his previous sanction and that such sanction has not been granted, shall remove any attachment or other process placed or on set aside any sale of, or affecting, such occupancy.

71. . :-

Repealed]

72. Interstate occupancy or holding to be sold. :-

If an occupant who is either a Hindu, a Mohammedan, or a Buddhist dies interstate and without known heirs, the Collector shall dispose of his occupancy by sale, subject to the provisions of this Act or of any other law at the time in force for the sale of forfeited occupancies in realization of the land revenue, and the law at the time in force concerning property left by Hindus, Mohammedans or Buddhists dying interstate and without known heirs shall not be deemed to apply to the said occupancy but only to the proceeds of such sale after deducting all arrears of land revenue due by the deceased to the Government and all expenses of the said sale.

73. Occupancy to be transferable and heritable. :-

An occupancy shall, subject to the provisions contained in section 56, and to any conditions lawfully annexed to the tenure, and have as otherwise prescribed by law, be deemed an heritable and transferable property.

73A. Power to restrict right of transfer. :-

(1) Notwithstanding anything in the foregoing section, in any tract or village to which the State Government may, by notification published before the introduction therein of an original survey settlement under section 103, declare the provisions of this section applicable, occupancies shall not after the date of such notification be transferable without the previous sanction of the Collector.

(2) The State Government may, by notification in the Official Gazette, from time to time exempt any part of such tract or village or any person or class of persons from the operation of this section.

73AA. Restriction on transfer of occupancies of tribal to tribal or non-tribal. :-

1

(1) Notwithstanding anything contained in section 73, an occupancy of a person belonging to any of the Schedule Tribes (hereafter in this section and in section 73-AB referred to as "(the tribal)" shall not be transferred to any person without the previous sanction of the Collector.

(2) The previous sanction of the Collector under sub-section (1) may be given in such circumstances and subject to such conditions as may be prescribed.

(3)

(a) Where tribal transfers the possession of his occupancy to another tribal in contravention of sub-section (1), the tribal transferor or his successor in interest may, within two years of such transfer, apply to the collector that the possession of such occupancy may be restored to him and there upon the Collector shall, after issuing a notice to the transferee or his successor in interest, as the case may be in the prescribed form to show cause why he should not be disentitled to retain possession of the occupancy and after holding such inquiry as he deems fit, declare that the transferee or his successor in interest shall not be entitled to retain possession of the occupancy and that the occupancy shall be restored to the tribal transferor or his successor in interest as the case may be, on the same terms and conditions on which the transferor held it immediately before the transfer and subject to his acceptance of the liability for payment of arrears of land Revenue in respect of such occupancy in accordance with the rules made by the State Government and that the transferee or his successor in interest as the case may, be shall be deemed to be unauthorisedly occupying the occupancy:

Provided that such declaration shall stand revoked if the tribal transferor, or, as the case may be, his successor in interest fails or refuses in writing to accept the restoration of the possession of such occupancy within the prescribed period.

(b) Where-

(i) a tribal in contravention of sub-section (1) of section 73-A or of any other law for the time being in force has transferred his occupancy to another tribal at any time during the period commencing on the 4th April, 1961 and ending on the day immediately before the date of commencement of the Bombay Land Revenue (Gujarat Second Amendment) Act, 1980, and

(ii) the tribal transferee or his successor in interest has not been evicted from such occupancy under section 79-A, the transfer of occupancy shall be valid, as if it were made with the previous sanction of the Collector under section 73-A.

(4) Where a tribal-

(a) in contravention of sub-section (1) of this section, or of sub-section (1) of section 73-A of any or other law for the time being in force, transfers his occupancy to any person other than a tribal (here after in this section and in section 73-AB referred to as "the non-tribal") at any time on or after the date of commencement of the Bombay Land Revenue (Gujarat Second Amendment) Act, 1980 (Gujarat 37 of 1980) (hereinafter in this section referred to as "the said date"); or

(b) in contravention of sub-section (1) of section 73-A or of any other law for the time being in force has transferred his occupancy to a non-tribal at any time before the said date, The Collector shall, notwithstanding anything contained in any law for the time being in force, either suo-motu at any time, or on an application made by the tribal transferor or his successor- in interest at any time within three years from the said date or the date of such transfer, whichever is later, after issuing a notice to the transferee or his successor in interest as the case may be, to show cause why the transfer should not be declared void and after making such inquiry as he thinks fit, declare the transfer of such occupancy to be void and thereupon the occupancy together with the standing crops thereon, if any, shall vest in the State Government free from all encumbrances.

(5) Where an occupancy is vested in the State Government under sub-section (4) and such occupancy was assessed or held for the purposes of agriculture immediately before its transfer by the tribal transferor, the Collector shall, after taking necessary action under sections 79-A and 202, give notice to the tribal transferor or his

successor in interest, as the case maybe, requiring him to state in writing within ninety days from the date of receipt of such notice whether he is willing to purchase the occupancy and cultivate it personally, and if such tribal transfer or his successor in interest agrees to purchase the occupancy and undertakes to cultivate it personally, it maybe granted to him on payment of the prescribed occupancy price.

(6) If within the said period of ninety days the transferor or his successor in interest does not intimate his willingness to purchase the occupancy and to cultivate it personally, or fails to pay the occupancy price within such period as may be specified by the Collector, the occupancy shall be granted to any other tribal residing in the same village or in any other village situated within such distance from the village as may be prescribed on the same conditions, including the payment of the occupancy price, as are specified in sub-section (5), and if he is not so willing, it shall be granted to other classes of persons in such order or priority at such occupancy price and subject to such conditions as may be prescribed.

(7) Where any occupancy is transferred to a non-tribal in contravention of sub-section (1) such non-tribal shall, without prejudice to any other liability to which he may be subject, be liable to pay to the State Government, a penalty not exceeding three times the value of the occupancy, such penalty and value to be determined by the Collector, and such determination shall be, final:

Provided that before levying any such penalty, the non-tribal shall be given a reasonable opportunity of being heard.

(8) The penalty payable under sub-section (7) shall, if it is not paid within the time specified by the Collector, be recoverable as an arrear of land revenue.

Explanation.-For the purposes of this section,-

(i) "prescribed" means prescribed by rules under section 214;

(ii) "Scheduled Tribes" means such tribes or tribal communities or parts of or groups within such tribes or tribal communities as are deemed to be Scheduled Tribes in relation to the State of Gujarat under article 342 of the Constitution;

(iii) "to cultivate personally" shall have the meaning assigned to it in clause (6) of section 2 of the Bombay Tenancy and Agricultural Lands Act, 1948.

1. (1) In sub-sections (1), (2) and (3), the word 'Collector' shall be substituted by the words "the District Panchayat";

2. In sub-section (3), in clause (a), for the words "occupancy to another tribal", the words "occupancy to any person" shall be substituted;

3. In sub-section (4), in clause (a), the words etc. "of sub- section (1) of this section, or" shall be deleted.

4. In the Explanation, before clause (i), the following clause shall be inserted, namely:-

"(ia)" district panchayat" means a district panchayat of a district comprising of any Scheduled Areas of the State as referred to in clause (1) of article 244 of the Constitution of India, in which the occupancy of the tribal exists".

1. Ss.73AA. 73AB. 73AC and 73AD. Inserted by Gujarat 37 of 1980.

73AB. Payment of premium for sanctioning transfer or partition of occupancy. :-

Notwithstanding anything contained in section 73 or in sub-section (1) of section 73-AA or in any condition lawfully annexed to the tenure, but subject to the provision contained in section 35, it shall be lawful for an occupant to mortgage, or create a charge on his interest, in his occupancy in favour of the State Government in consideration of a loan advanced to him by the State Government under the Land Improvement Loans Act, 1883, the Agriculturists Loans Act, 1883 (19 of 1883) or the Bombay Non-Agriculturists 'Loans Act, 1928 (Bombay III of 1928) as in force in the State of Gujarat or in favour of a bank or a cooperative society, and without prejudice to any other remedy open to the State Government, bank or cooperative society as the case may be, the event of his making default in the payment of such loan in accordance with the terms on which such loan was granted, it shall be lawful for the State Government, bank or Co- operative society, as the case may be, to cause his interest in the occupancy to be attached and sold and the proceeds to be applied in payment of such loan:

Provided that if such occupant is a tribal his interest in the

occupancy shall not be sold to a non-tribal without the previous sanction of the Collector.

Explanation.-For the purposes of this section "bank" means-

(i) the State bank of India constituted under the State Bank of India 1955 (23 of 1955);

(ii) any subsidiary bank as defined in clause (k) of section 2 of the State Bank of India (Subsidiary Banks) Act. 1959 (38 of 1959);

(iii) any corresponding new bank as denned in clause (d) of section 2 of the Banking Companies (Acquisition and Transfer of Undertakings) Act. 1970 (5 of 1970);

(iv) the Agricultural Refinance and Development Corporation established under the Agricultural Refinance and Development Corporation Act, 1963 (10 of 1963).

73AC. Bar of jurisdiction of Civil Courts. :-

(1) No civil court shall have jurisdiction to settle, decide or deal with any question which is by or under section 73-A or section 73-AA or section 73-AB required to be settled, decided or dealt with by the Collector nor shall the civil court have jurisdiction to entertain any suit or application for grant of injunction (whether temporary or permanent) in relation to such question.

(2) No order of the Collector made under section 73-A or section 73-AA or section 73-AB shall be called in question in any civil or criminal court.

Explanation.-For the purposes of this section, a civil court shall include a Mamlatdar's Court under the Mamlatdars Court Act, 1906 (Bombay II of 1906).

73AD. Restriction on registration of documents. :-

(1)Notwithstanding anything contained in the Registration Act, 1908 (16 of 1908),-

(a) no document relating to transfer (not being a mortgage or creation of charge failing under section 73-AB of an occupancy of a person belonging to any of the Scheduled Tribes shall be registered on or after the date of the commencement of the Bombay Land Revenue (Gujarat Second Amendment) Act, 1980 (Gujarat 37 of 1980) (hereinafter in this section referred to as "the said date"), by

any registering officer appointed under the Registration Act, 1908 unless the person presenting the document furnishes a declaration by the transferor in the prescribed form which shall be subject to verification in the prescribed manner, that the transfer of occupancy is made with the previous sanction of the Collector under section 73-A or section 73-AA;

(b) a document relating to the transfer of an occupancy belonging to any of the Scheduled Tribes, referred to in clause (a) which is registered on or after the said date shall take effect and operate only from the time of such or registration.

(2) Nothing in sub-section (1) shall apply to the documents of transfers of occupancies of persons belonging to any of the Scheduled Tribes made before the said date, but presented for registration after the said date.

Explanation.-In this section, the expressions "prescribed" and "Scheduled Tribes" shall have the same meanings as the said expressions have in clauses (i) and (ii) respectively of the Explanation to section 73-AA.]

73B. Payment of premium for sanctioning transfer or partition of occupancy. :-

¹ Where any occupancy, by virtue of any conditions annexed to the tenure by or under this Act, is not transferable or partible without the previous sanction of the State Government, the Collector or any other officer authorised by the State Government, such sanction shall not be given except on payment to the State Government of such sum as the State Government may by general or special order determine.]

1. Inserted by Gujarat 35 of 1965.

74. Relinquishment. :-

The occupant may relinquish his land, that is, resign it in favour of the Government but subject to any rights, tenures, encumbrances or equities lawfully subsisting in favour of any person (other than the Government or the occupant) by giving notice in writing to the Mamlatdar or Mahalkari before the 31st March in any year or before such other date as may from time to time be prescribed in this behalf by the State Government and such relinquishment shall have effect from the close of the current year:

Provided that no portion of land which is less in extent than a

whole survey number or sub-division of a survey number may be relinquished.

75. . :-

Repealed]

76. Relinquishment of land described in paragraph 1 of section 49 :-

The provisions of the last section shall apply as far as maybe, to the holders of alienated land:

Provided that,

(a) it shall not be lawful to relinquish as aforesaid, any portion of any land held wholly or partially exempt under the circumstances described in the first paragraph of section 49 until the commuted assessment payable in respect of such portion of land has been determined under the provisions of the said section; and that

(b) Relinquishment of land described in section 51.-if any person relinquishes land on which, under the circumstances described in section 51, a larger revenue is levied than would ordinarily be leviable on such land, he shall be deemed to have relinquished also the land held with it which is wholly or partially exempted from payment of revenue.

77. Right of way to relinquished land. :-

If any person relinquishes land, the way to which lies through other land which he retains, the right of way through the land so retained shall continue to the future holder of the land relinquished.

78. Saving of operation of section 74 in certain cases. :-

Nothing in section 74 shall affect- the validity of the terms or conditions of any lease or other express instrument under which land is, or may hereafter be, held from the Government.

79. . :-

Repealed]

79A. Summary eviction of person unauthorisedly occupying land. :-

Any person unauthorisedly occupying, or wrongfully in possession of, any land-

(a) to the use or occupation of which by reason of any of the provisions of this Act he is not entitled or has ceased to be entitled,

or

(b) which is not transferable without previous sanction under section 73-A or section 73-AA or section 73-AB by virtue of any condition lawfully annexed to the tenure under the provisions of section 62, 67 or 68,

may be summarily evicted by the Collector:

1 [Provided that this section shall not apply in the case where the tribal transferor does not make an application under clause (a) of sub-section (3) of section 73-AA within the time specified in that clause for restoration of possession.]

1. Inserted by Gujarat 37 of 1980.

80. To prevent forfeiture of occupancy, certain persons other than the occupant may pay the land revenue-Collector may assist such persons in recovering the revenue from other parties liable therefor. :-

In order to prevent the forfeiture of an occupancy under the provisions of section 56 or of any other law for the time being in force,¹ [through non-payment of the land revenue due on account thereof by the person primarily liable for payment of it shall be lawful for any person interested to pay on behalf of such person] all sums due on account of land revenue and the Collector shall on due tender thereof receive the same. And in any such case the Collector may under section 86 give to the person who has paid the land revenue as aforesaid aid for the recovery of any portion of such land revenue which he may consider to be properly payable by other persons:

Provided that nothing authorized or done under the provisions of this section shall affect the rights of the parties interested as the same may be established in any suit between such parties in a Court of competent jurisdiction.

1. Substituted by Bom 67 of 1948.

81. . :-

Repealed]

82. Provincial Government empowered to suspend operation of section 60 or 74. :-

It shall be lawful for the State Government by notification in the Official Gazette from time to time.-

- (a) to suspend the operation of section 60 or 74 or of both, within any prescribed local area, either generally, or in respect of cultivators or occupant of a particular class or classes; and
- (b) to cancel any such notification.

During the period for which any notification under the above clause (a) is in force within any local area, such rules shall be substituted for the provisions of which the operation is suspended as the¹ [State Government] shall from time to time direct.

1. Substituted by Gujarat 15 of 1964.

CHAPTER 7

OF SUPERIOR AND INFERIOR HOLDERS

83. Amount of rent payable by tenant. :-

A person placed, as tenant, in possession of land by another, or in that capacity, holding, taking, or retaining possession of land permissively from or by sufferance of another shall be regarded as holding the same at the rent or for the services agreed upon between them; or in the absence of satisfactory evidence of such agreement at the rent payable or services renderable by the usage of the locality, or, if there be no such agreement or usage, shall be presumed to hold at such rent as, having regard to all the circumstances of the case, shall be just and reasonable. Duration of tenancy.-And where by reason of the antiquity of a tenancy, no satisfactory evidence of its commencement is forthcoming, and there is not any such evidence of the period of its intended duration, if any, agreed upon between the landlord and tenant, or those under whom they respectively claim title or any usage of the locality as to duration of such tenancy, it shall, as against the immediate landlord of the tenant be presumed to be co-extensive with the duration of the tenure of such landlord and of those who derive title under him. Presumption as to tenure.-And where there is no satisfactory evidence of the capacity in which a person in possession of land in respect of which he renders service or pays rent to the landlord receives, holds or retains possession of the same, it shall be presumed that he is in possession as tenant. Saving clause.-Nothing contained in this section shall affect the right of the landlord (if he have the same either by virtue of agreement, usage or otherwise), to enhance the rent payable or services renderable by the tenant, or to evict the tenant for non-payment of the rent or non-rendition of the services, either respectively originally fixed or duly enhanced as aforesaid.

84. Annual tenancy terminates on the 31st March. :-

An annual tenancy shall in the absence of proof of the contrary be presumed to run from the end of one cultivating season to the end of the next. The cultivating season may be presumed to end on the 31st March. Three months' notice of termination of tenancy to be given by landlord to tenant, or vice versa.-An annual tenancy shall in the absence of any special agreement in writing to the contrary require for its termination a notice given in writing by the landlord to the tenant, or by the tenant to the landlord, at least three months before the end of the year of tenancy at the end of which it is intimated that the tenancy is to cease. Such notice may be in the form of Schedule E, or to the like effect.

84IA. Sections 83 and 84 not to apply to certain tenancies.

:-

1- The provisions of sections 83 and 84 shall cease to apply to tenancies to which the provisions of the Bombay Tenancy and Agricultural Lands Act,² [1948 (Bombay LXVII of 1948), or as the case may be, of the Bombay Tenancy and Agricultural Lands (Vidarbha Region and Kutch Area) Act, 1958 (Bombay XCIX of 1958), apply.]

1. Inserted by Bombay 13 of 1956.

2. Substituted by Gujarat 35 of 1965.

84A. Order granting suspensions or remissions to inferior holders. :-

(1) Whenever from any cause the payment of the whole or any part of the land revenue payable to the State Government by a superior holder in respect of any land is suspended or remitted, the Collector, acting under general or special orders of the State Government, may suspend or remit as the case may be, the payment to such superior holder of the rent or land revenue of such land by the inferior holder or holders to an amount which-

(a) in the case of land in respect of which full assessment is payable to the State Government, shall not exceed double the amount of the land revenue of which the payment by such superior holder has been suspended or remitted by the State Government, and

(b) in the case of land in respect of which land revenue less than the full assessment is payable to the State Government, shall not exceed double the amount which, in the opinion of the Collector,

would have been suspended or remitted by the State Government, in favour of the superior holder if the full assessment had been payable to the State Government in respect of such land.

(2) In the case of land in respect of which no land revenue is payable to the State Government by a superior holder, whenever from any cause the payment of the whole or any part of the land revenue payable to the State Government, in respect of any other land in the same neighborhood has been suspended or remitted the Collector acting under the general or special orders of the State Government, may suspend or remit, as the case may be, payment, to such superior holder of the rent or land revenue of the first-mentioned land by the inferior holder or holders to an amount which shall not exceed double the amount which, in the opinion of the Collector, would have been suspended or remitted by the State Government in favour of the superior holder if the full assessment had been payable to the State Government in respect of such land.

(3) Such order not to be questioned in any Court.-An order passed under sub-section (1) or under sub-section (2) shall not be questioned in any court.

(4) Consequences following on such order.-If the superior holder collects any rent or land revenue of which the payment has been remitted or before the expiration of the period of suspension collects any rent or land revenue of which the payment has been suspended in favour of an inferior holder or holders, the whole of the land revenue remitted or suspended in favour of such superior holder shall, without prejudice to the rights of the inferior holder or holders to recover the rent or land revenue so collected, become immediately payable by the superior holder.

(5) No application for assistance under sections 86 and 87 shall be entertained, no suit shall lie, and no decree of a Civil Court shall be executed, for the recovery by a superior holder of any rent or land revenue of which the payment has been, remitted, or during the period of suspension of any rent or land revenue of which the payment has been suspended in favour of an inferior holder or holders; but, where the payment of rent or land revenue by an inferior holder or holders has been suspended, the period during with the suspension has continued shall be excluded from the period of limitation prescribed for a suit for the recovery of such rent or land revenue.

(6) Crop-share fixed by custom or agreement.-Nothing in this section shall make it unlawful for the superior holder to take the crop-share fixed by custom or agreement in respect of any land on which rent is payable in whole or in part in the form of a share of the crop.

(7) Explanation- Meaning of assessment.-In respect of land which has not been assessed under the provisions of this Act the term assessment, for the purposes of this section, includes the rent in land revenue payable by custom or by the usage of the locality.

85. Recovery of superior holders due. :-

(1) Every superior holder of an alienated village or of an alienated share of a village, in which there are a hereditary patel and a¹ [Village Accountant] shall receive his dues on account of rent or land revenue, from the inferior holders through such patel and accountant.

(2) Where such patel and accountant fail to recover in behalf of such superior holder any sum due and payable to him on account of rent or land revenue, such superior holder shall, with the previous consent of the Collector, be entitled to recover his dues direct from the inferior holders.

(3) Where any such patel or accountant has recovered any sum in behalf of such superior holder and fails to account to him for the same, the Collector, shall, on written application from the superior holder, recover such sum from such patel or accountant as an arrear of land revenue.

(4) Where any such superior holder demands or receives any rent or land revenue from any inferior holder otherwise than through such patel or accountant, he shall on conviction in a summary inquiry before the Collector, be liable to a fine not exceeding three times the amount of the sum so demanded or received.

1. Substituted by Bombay 60 of 1950.

86. Superior holders entitled to assistance in recovery of dues from inferior holders, etc. :-

Superior holders shall, upon written application to the Collector, be entitled to assistance, by the use of precautionary and other measures, for the recovery of rent or land revenue payable to them by inferior holder or by co-sharers in their holdings under the same

rules, except that contained in section 137, and in the same manner as prescribed in Chapter XI for the realization of land revenue by the State Government:

1 [Provided that such application shall be made before the expiry of the year immediately succeeding the revenue year or the year of the tenancy in which the said rent or land revenue became payable.]

1. Substituted by Bombay 13 of 1956.

87. The Collector how to proceed on such application being made. :-

(1) On application being made under section 86 to the Collector, he shall cause a written notice thereof to be served on the inferior holder or co-sharer fixing a day for inquiry into the case.

(2) On the day so fixed he shall hold a summary inquiry, and shall pass an order for rendering assistance to the superior holder for the recovery of such amount, if any, of rent or land revenue as appears to him upon the evidence before him to be lawfully due.

(3) Assistance may be refused or granted to a limited extent only.- But, if it appears to the Collector that the question at issue between the parties is of a complicated or difficult nature, he may in his discretion either refuse the assistance asked for, or, if the land to which the dispute relates, has been assessed under the provisions of this Act grant assistance to the extent only for the assessment so fixed upon the said land.

(4) Nothing in this section shall prevent either party from having recourse to the Civil Courts to recover from the other such amount as he may deem to be still due to him, or to have been levied from him in excess of what was due, as the case may be.

(5) One appeal only shall lie from any order passed under this section.

88. . :-

Repealed]

89. . :-

Repealed]

90. . :-

Repealed]

91. . :-

Repealed]

92. . :-

Repealed]

93. . :-

Repealed]

94. . :-

Repealed]

94A. Recovery as revenue demand of dues of certain superior holders for specified period. :-

(1) The superior holder of an alienated village or of an alienated share of a village, in which there are a hereditary patel and a * [Village Accountant] and to which a survey settlement has been extended under section 216, may by application in writing to the Assistant or Deputy Collector in charge of the taluka request that the rent or land revenue due to such superior holder may during a period named in the application be recovered as a revenue demand.

(2) The Collector may in his discretion sanction the application for a period not exceeding that named by the applicant, and in such case the following provisions shall apply:-

(a) Any rent or land revenue that accrues or has accrued due to the superior holder during the sanctioned period or a period of six years previous thereto shall, to an extent not exceeding the assessment fixed on the land, be recoverable under the orders of the revenue authorities as a revenue demand during the sanctioned period.

(b) Where any proportion of the land revenue that accrues or has accrued due to the State Government in respect of unalienated land in the same neighborhood during the said sanctioned or previous period has been suspended or remitted by proper authority, the Collector may suspend or remit an equal or lesser proportion of the rent or land revenue that accrues or has accrued due to the superior holder during the corresponding period. Any such suspension or remission shall, notwithstanding anything in the Bombay Revenue Jurisdiction Act, 1876 (X of 1876), be binding upon the superior holder in any subsequent proceedings in any Civil Court between the superior and inferior holders or their legal

representatives and any proceeding pending at the date of such suspension or remission shall abate to the extent of any claim that may be inconsistent therewith; and no Civil Court shall entertain any suit against the Government in respect of any such suspension or remission.

(c) Where any such suspension or remission has been granted to an inferior holder, the land revenue (if any) payable by the superior holder shall be suspended or remitted, as the case may be, to a proportionate extent.

(d) The balance of any sum recovered under clause (a) shall be paid to the superior holder after deduction of the costs, if any, of recovery and of any sum lawfully chargeable upon the sum recovered.

CHAPTER 8

OF SURVEYS, ASSESSMENTS AND SETTLEMENTS OF LAND REVENUE

95. Revenue survey may be introduced by State Government into any part of Presidency. :-

It shall be lawful for the State Government, whenever it may seem expedient, to direct the survey of any land in any part of the area to which this Act extends, with a view to the settlement of the land revenue, and to the record and preservation of rights connected therewith, or for any other similar purpose and such survey shall be called a revenue survey. Such survey may extend to the lands of any village, town, or city, generally, or to such land only as the State Government may direct; and subject to the orders of the State Government it shall be lawful for the officers conducting any such survey to except from the survey settlement any land to which it may not seem expedient that such settlement should be applied. Control of revenue survey .-The control of every such revenue survey shall vest in and be exercised by the State Government.

96. Survey officer may require, by general notice or by summons suitable service from holders of land, etc. :-

It shall be lawful for the survey officer deputed to conduct to take part in any such survey, to require by general notice or by summons, the attendance of holders of lands and of all persons interested therein, in person, or by legally constituted agent duly instructed and able to answer all material questions, and the presence of taluka and village officers, who in their several stations and capacities are legally, or by usage, bound to perform service in

virtue of their respective offices and to require from them such assistance in the operations of the survey and such service in connection therewith, as may not be inconsistent with the position of the individual so called on.

97. Assistance to be given by holders and others in the measurement or classification of lands. :-

It shall be lawful for the survey officer to call upon all holders of land and other persons interested therein to assist in the measurement or classification of the lands to which the survey extends by furnishing flag-holders; and in the event of necessity for employing hired labour for this or other similar object, incidental to survey operations, it shall be lawful to assess the cost thereof, with all contingent expenses on the lands surveyed, for collection as a revenue demand.

98. Survey numbers not to be less than a certain extent. :-

Except as hereinafter provided, no survey number comprising land used for purposes of agriculture only shall be made of less extent than a minimum to be fixed from time to time for the several classes of land in each district by the Commissioner of Survey, with the sanction of the State Government. A record of the minima so fixed shall be kept in the Mamlatdar's office in each taluka, and shall be open to the inspection of the public at reasonable times.

Exception.-These provisions shall not apply to survey numbers which have already been made of less extent than the minima so fixed, or which may be so made under the authority of the Commissioner of Survey given either generally or in any particular instance in this behalf; and any survey number separately recognized in the land records shall be deemed to have been authorisedly made whatever be its extent.

99. . :-

Repealed].

100. . :-

Repealed].

101. . :-

Repealed].

102. . :-

Repealed].

103. . :-

Repealed].

104. . :-

Repealed].

105. The fixing of assessment under section 102 limited to ordinary land revenue. :-

The fixing of the assessment under the provisions of this Act shall be strictly limited to the assessment of the ordinary land revenue, and shall not operate as a bar to the levy of any cess which it shall be lawful for the State Government to impose under the provisions of any law for the time being in force for purposes of local improvement, such as schools, village, and district roads bridges, tanks, wells, accommodation or travelers, and the like or of any rate for the use of water which may be imposed under the provisions of section 55 or of the Bombay Irrigation Act 1879.

106. State Government may direct a fresh survey and revision of assessment. :-

It shall be lawful for the State Government to direct at any time, a fresh survey or any operation subsidiary thereto:

Provided that when a general classification of the soil of any area has been made a second time, or when any original classification of the soil of any area has been approved by the State Government as final, no such classification shall be again made with a view to the revision of the assessment of such area.

107. . :-

Repealed]

108. Preparation of statistical and fiscal records. :-

It shall be the duty of the survey officer, or the Settlement Officer on the occasion of making or revision a settlement of land revenue, to prepare a register, to be called "the Settlement Register", showing the area and assessment of each survey number, with any other particulars that may be prescribed and other records in accordance with such orders as may from time to time be made on this behalf by the State Government.

109. . :-

Repealed]

110. . :-

Repealed]

111. Revenue management of villages or estates not belonging to the Government that may be temporarily under the management of State Government. :-

In the event of any alienated village or estate coming under the temporary management of Government Officers, it shall be lawful for the Collector to let out the lands thereof, at rates determined by means of a survey settlement or at such other fixed rates as he may deem to be reasonable, and to grant unoccupied lands on lease and otherwise to conduct the revenue management thereof under the rules for the management of unalienated lands, so far as such rules may be applicable, and for so long as the said village or estate shall be under the management of Government Officers: Provided, however, that any written agreements relating to the land, made by the superior holder of such village or estate, shall not be affected by any proceedings under this section in so far as they shall not operate to the detriment of the lawful claims of the Government on the land.

112. Maintenance of existing settlements of land revenue. :-

Existing survey settlements of land revenue made, approved and confirmed under the authority of the State Government shall be, and are hereby declared to be, in force subject to the provisions of this Act.

113. Partition. :-

Expenses properly incurred in making partition of estates paying revenue to the State Government shall be recoverable as a revenue demand in such proportions as the Collector may think fit from the sharers at whose request the partition is made, or from the persons interested in the partition.

114. . :-

Repealed]

115. . :-

Repealed].

116. Division of survey numbers into new survey numbers. :-

When any portion of cultivable land is permitted to be used under the provisions of section 65 or 67 for any non-agricultural purpose or when any portion of land is specially assigned under section 38,

or when any assessment is altered or levied on any portion of land under sub-section (2) or sub-section (3) of section 48, such portion may, with the sanction of the Collector, be made into a separate number at any time notwithstanding the provisions of section 98.

117. . :-

Repealed].

117A. Division of survey numbers into sub-divisions. :-

¹ [Subject to the provisions of the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947 (Bombay LXII of 1947)].-

(1) survey numbers may from time to time and at any time be divided into so many sub-divisions as may be required in view of, the acquisition of rights in land or for any other reasons;

(2) the division of survey numbers into sub-divisions and the fixing of the assessment of the sub-divisions shall be carried out and from time to time revised in accordance with rules made by the State Government in this behalf:

Provided that the total amount of the assessment of any survey number or sub-division shall not be enhanced during any term for which such assessment may have been fixed under the provisions of this Act, unless such assessment is liable to alteration under section 48;

(3) the area and assessment of such sub-divisions shall be entered in such land records as the State Government may prescribe in this behalf.

1. Inserted by Bombay 62 of 1947.

117B. Provisions applicable on relinquishment or forfeiture of a sub-division. :-

Subject to the provisions of the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947 (Bombay LXII of 1947), if any sub-division of a survey number is relinquished under section 74 or is forfeited for default in payment of land revenue, the Collector shall offer such sub- division at such price as he may consider it to be worth to the occupants of the other sub-divisions of the same survey number in such order as in his discretion he may think fit; in the event of all such occupants refusing the same, it shall be disposed of as the Collector shall

deem fit:

Provided that until the said sub-division shall be occupied or until the entire survey number shall be relinquished, whichever event may first occur, the assessment of the said sub-division shall be levied from the occupants of the other sub-divisions of the survey number in proportion to the amount of assessment due from such occupants on account of their sub-divisions. For the purposes of this section notwithstanding anything contained in section: 3, if any of the other sub-divisions have been mortgaged with possession, the mortgagors shall be deemed to be the occupants thereof.

CHAPTER 8A

ASSESSMENT AND SETTLEMENT OF LAND REVENUE OF AGRICULTURAL LAND

117C. Interpretation section. :-

In this Chapter, unless there is anything repugnant in the subject or context-

(1) "Settlement" means the result of the operations conducted in a zone in order to determine the land revenue assessment.

1[(1-A) "zone" means a local area comprising a taluka or a group of talukas or portions thereof of one or more districts, which in the opinion of the State Government or an officer authorised by it in this behalf, is contiguous and homogeneous in respect of-

(i) physical configuration,

(ii) climate and rainfall,

(iii) principal crops grown in the area, and

(iv) soil characteristics.]

(2) "Term of a settlement" means the period for which the State Government has declared, that a settlement shall remain in force.

(3) "Group" means all lands in²[a zone, which in the opinion of the State Government or an officer authorised by it in this behalf], are sufficiently homogeneous in respect of the factors enumerated in sub-section (2) of section 117-G to admit of the application to them of the same standard rates for the purpose of assessment of land revenue.

(4) "Classification value" means the relative valuation of land as recorded in the survey records having regard to its soil, water and

other advantages.

(5) "Standard rate" means, with reference to any particular class of land in a group³[the value of one sixteenth of the average yield of crops] per acre on land in that class of sixteen annas classification value.

(6) "Class of land" means any of the following classes of land, namely, dry crop, rice or garden land.

(7) "Rental value" means the consideration (including premia, if any, or any sum of money paid or promised, or a share of crops,⁴ [x x x] or any other thing of value rendered periodically or on specified occasions) for which land is or could be leased for a period of one year for its most advantageous use.

(8) "Prescribed" means prescribed by rules made under section 214.

1. Inserted by Bombay 28 of 1956.
2. Substituted by Bombay 28 of 1956.
3. Substituted by Bombay 28 of 1956.
4. Deleted by Bombay 28 of 1956.

117D. Government may direct an original or revision settlement of land revenue of lands comprised in a revenue survey. :-

(1) The State Government may at any time direct a settlement, hereinafter referred to as an original settlement, of the land revenue of any land of which a revenue survey has been made under section 95¹ [or not].

(2) The State Government may also direct at any time a fresh settlement, hereinafter referred to as a revision settlement, of the land revenue of such land:

Provided that no enhancement of assessment shall take effect before the expiration of the settlement for the time being in force.

1. Inserted by Bombay 28 of 1956.

117E. The term of settlement. :-

A settlement shall remain in force for a period of 30 years:

Provided that in the case of any particular settlement, the State Government may, for reasons to be recorded, direct that the settlement shall remain in force for any period less than 30 years:

Provided further that, when in the opinion of the State Government a revision settlement is inexpedient, or when the introduction of such settlement has, for any cause, been delayed, the State Government may extend the term of the settlement or the time being in force for such period as it may think fit.

117F. . :-

Deleted]

117G. Assessment how determined. :-

(1) The land revenue assessment on all lands in respect of which a settlement has been directed under sub-section (1) or sub-section (2) of section 117-D and which are not wholly exempt from the payment of land revenue shall, subject to the limitations contained in¹[the first proviso to sub-section (1) of] section 52; be determined by dividing the lands to be settled into groups and fixing the standard rates for each group;

2[x x x]

3 (2) The groups shall ordinarily be formed on a consideration of the following factors:-

- (i) physical configuration,
- (ii) climate and rainfall,
- (iii) prices, and
- (iv) yield of principal crops:

Provided that if deemed necessary, the following factors may also be taken into consideration in forming the groups, namely:-

- (a) markets,
- (b) communications,
- (c) standard of husbandry,
- (d) population and supply of labour,
- (e) agricultural resources,
- (f) variations in the area of occupied and cultivated lands during the last 30 years,
- (g) wages,

(h) ordinary expenses of cultivating principal crops, including the wages of the cultivator for his labour in cultivating the land,

(i) sales of lands used for the purpose of agriculture.]

(3) The land revenue assessment of individual survey numbers and sub-divisions shall be based on their classification value in the manner prescribed.

1. Substituted by Bombay 28 of 1956.

2. Deleted by Bombay 28 of 1956.

3. Substituted by Bombay 28 of 1956.

117H. Increased in value due to improvements at the expense of holders not to be taken into account. :-

If during 30 years immediately preceding the date on which the settlement for the time being in force expires any improvements have been effected in any land by or at the expense of the holder thereof, the increase¹ [in the average yield of crops] of such land due to the said improvements shall not be taken into account in fixing the revised assessment thereof.

1. Substituted by Bombay 28 of 1956.

117I. Settlement Officer how to proceed for making a settlement. :-

In making a settlement the Settlement Officer shall proceed as follows:-

(1) He shall hold enquiry in the manner prescribed by rules made under this Act.

(2) He shall divide the lands to be settled into groups.

(3) He shall ascertain in the prescribed manner the¹[average yield of crops] of lands for the purposes of the settlement.

(4) He shall then fix standard rates for each class of land in each group on a consideration of² [the relevant factors as provided] in sub-section (2) of section 117-G.

(5) He shall submit to the Collector a report, hereinafter called the settlement report, containing his proposals for the settlement.

1. Substituted by Bom, 28 of 1956.

2. Substituted by Bombay 28 of 1956.

117J. Settlement report to be printed and published. :-

(1) After the settlement report has been submitted to the Collector, the Collector shall cause such report to be published in the prescribed manner.

(2) There shall also be published in each village concerned in the regional language of such village a notice stating for each class of land in the village the existing standard rate and the extent of any increase or decrease proposed therein by the Settlement Officer. The notice shall also state that any person may submit to the Collector his objections in writing to the proposals contained in the settlement report within three months from the date of such notice.

117K. Submission to Government of settlement report with statement objections etc. and Collectors opinion thereon. :-

After taking into consideration such objections as may have been received by him, the Collector shall forward to the State Government, through such officers as the State Government may direct, the settlement report with his remarks thereon.

117KK. Reference to Revenue Tribunal. :-

Any person aggrieved by the report published by the Collector under section 117-J may within two months from the date of notice under sub-section (2) of section 117-J apply to the State Government for reference to the Gujarat Revenue Tribunal constituted under the Bombay Revenue Tribunal Act, 1957 (Bombay XXXI of 1958). On such person depositing such amount of costs as may be prescribed, the State Government shall direct the report to be sent to the Revenue Tribunal for enquiry. The Revenue Tribunal after making an enquiry in the manner prescribed shall submit its own opinion on the objections raised and on such other matters as may be referred to it by the State Government. The State Government may make rules for the refund of the whole or any portion of the costs in such cases as it deems fit.

117L. Settlement report to be laid on table of Legislature and copies be supplied to the members of each Chamber. :-

(1) The settlement report together with the objections, if any received thereon and the opinion of the Revenue Tribunal on a reference, if any, made to it under section 117-KK shall be laid on the table of the State Legislature and a copy thereof shall be sent to every member thereof. The said report shall be liable to be discussed by a resolution moved in the State Legislature at its next following session.

(2) After the termination of such session the State Government may pass such orders as it may deem fit:

Provided that no increase in the standard rates proposed in the settlement report shall be made unless a fresh notice as provided in section 117-J has been published in each village affected by such rates and objections received, if any, have been considered by the State Government. The provisions of sub-section (1) shall, so far as may be, apply to orders to be passed regarding such increase.

(3) The orders passed by the State Government under subsection (2) shall be final and shall not be called in question in any Court.

117M. Power of State Government to place surcharge or grant rebate after every ten years. :-

1

(1) Notwithstanding anything contained in this Chapter, it shall be lawful for the State Government in any year, after the expiry of every ten years from the date on which the settlement was introduced under section 117-O, to enhance or reduce the assessment on lands in any zone, by placing a surcharge or granting a rebate, on the assessment by reference to the alteration of the prices of the principal crops in such zone.

(2) For the purpose of sub-section (1), the prices of principal crops shall be recorded and published in the Official Gazette.

(3) The surcharge shall be levied or the rebate shall be granted under sub-section (1) according to the scale prescribed by rules made in this behalf.]

1. Substituted by Bombay 28 of 1956.

117N. Power to Government to exempt from assessment for water advantages. :-

(1) The State Government may at the time of passing orders under sub-section (2) of section 117-L exempt any land from assessment under this Chapter for any advantage or specified kind of advantage accruing to it from water.

(2) The State Government may at any time during the term of the settlement, after publishing a notice in the village concerned in the regional language of such village and after the expiry of a period of six months from the date of the publication of such notice, withdraw any exemption granted by it under sub-section (1) and

direct that such land shall be assessed for such advantage.

117O. Introduction of settlement. :-

After the State Government has passed orders under section 117-L and notice of the same has been given in the prescribed manner the settlement shall be deemed to have been introduced and the land revenue according to such settlement shall be levied from such date as the State Government may direct:

Provided that in the year in course of which a survey settlement, whether original or revised may be introduced under this section, the difference between the old and the new assessment of all lands on which the latter may be in excess of the former shall be remitted and the revised assessment shall be levied only from the next following year:

Provided further that in the year next following that in which any original or revised survey settlement has been introduced any occupant who may be dissatisfied with the increased rate imposed by such new assessment on any of the survey numbers or sub-divisions of survey numbers held by him shall, on relinquishing such number or sub-division in the manner prescribed by section 74 on or before the 31st March, receive a remission of the increase so imposed.

117P. Assessment of lands wholly exempt from payment of land revenue. :-

Nothing in this Chapter shall be deemed to prevent the Settlement Officer from determining and registering the proper full assessment on lands wholly exempt from the payment of land revenue.

117Q. Power to Government to direct assessment for water advantages. :-

Notwithstanding anything contained in this Chapter the State Government may direct at the time of passing orders under sub-section (2) of section 117-L that any land in respect of which a settlement is made under this Chapter shall be liable to be assessed to additional land revenue during the term of the settlement for additional advantages accruing to it from water received on account of irrigation works or improvements in existing irrigation works completed after the State Government has directed the settlement under section 117-D and not effected by or at the expense of the holder of the land. Such land revenue shall be leviable only when no rate in respect of such additional advantages

is levied under the Bombay Irrigation Act, 1879 (Bombay VII of 1879):

Provided that the State Government shall, before making such direction, publish a notice in this behalf in the village concerned in the regional language of such village and shall consider the objections, if any, received to the proposal contained therein and no such direction shall be issued until after the expiry of a period of six months from the date of publication of such notice.

117R. Settlements made before this Act to be deemed to be made under this chapter. :-

All settlement of land revenue heretofore made and introduced and in force at the date of the commencement of the Bombay Land Revenue Code (Amendment) Act, 1939, shall be deemed to have been made and introduced in accordance with the provisions of this Chapter and shall, notwithstanding anything contained in section 117-E, be deemed to continue to remain in force until the introduction of a revision settlement.

CHAPTER 9

THE SETTLEMENT OF BOUNDARIES AND THE CONSTRUCTION AND MAINTENANCE OF BOUNDARY MARKS

118. Determination of village-boundaries. :-

The boundaries of villages situated in the area to which this Act extends shall be fixed, and all disputes relating thereto shall be determined by survey officers, or by such other officers as may be nominated by the State Government for the purpose, who shall be guided by the following rules.

Rule 1.-When the patels and other village officers of any two or more adjoining villages and in the case of an alienated village the holder thereof or his duly constituted agent, shall voluntarily agree to any given line of boundary as the boundary common to their respective villages, the officer determining the boundary shall require the said parties to execute an agreement to that effect, and shall then mark off the boundary in the manner agreed upon. And any village boundary fixed in this manner shall be held to be finally settled, unless it shall appear to the said officer that the agreement has been obtained by fraud, intimidation, or any other illegal means.

Rule 2.-Procedure in case of disagreement or dispute. - If the Patels and other village officers, and, in the case of an alienated

village, the holder thereof or his duly constituted agent, do not agree to fix the boundaries of their respective villages, in the manner prescribed in the preceding rule, or if it shall appear to the said officer that the agreement has been obtained by fraud, intimidation, or any other illegal means, or if there be any pending dispute, the said officer shall make, a survey and plan of the ground in dispute, exhibiting the land claimed by the contending parties, and all particulars relating thereto, and shall hold a formal inquiry into the claims of the said parties, and thereafter make an award in the case. If either of the villages concerned be alienated, an award made by a survey officer shall, unless the officer making it be the Superintendent of Survey, be subject to his confirmation and an award made by any other officer shall be subject to confirmation by such other officer as the State Government may nominate for the purpose.

119. Determination of field-boundaries. :-

If at the time of a survey, the boundary of a field or holding be undisputed, and its correctness be affirmed by the village officers then present, it may be laid down as pointed out by the holder or person in occupation, be not present, it shall be fixed by the survey officer according to the land records and according to occupation as ascertained from the village officers and the holders of adjoining lands, or on such other evidence or information as the survey officer may be able to procure. If any dispute arise concerning the boundary of a field or holding which has not been surveyed, or if at any time after the completion of a survey a dispute arise concerning the boundary of any survey number or sub-division of a survey number, it shall be determined by the Collector, who shall be guided by the land records if they afford satisfactory evidence of the boundary previously fixed, and if not, by such other evidence as he may be able to procure.

120. Settlement of boundary disputes by arbitration. :-

If the several parties concerned in a boundary dispute agree to submit the settlement thereof to an arbitration committee, and make application to that effect in writing, the officer whose duty it would otherwise be to determine the boundary shall require the said parties, to nominate a committee of not less than three persons, within a specified time, and if within a period to be fixed by the said officer the committee so nominated or a majority of the members thereof arrive at a decision, such decision, when confined by the said officer, or if the said officer be a survey officer lower in

rank than a Superintendent of Survey, by the Superintendent of Survey, shall be final: When award may be remitted for reconsideration-

Provided that the said officer, or the Superintendent of Survey shall have power, to remit the award, or any of the matters referred to arbitration, to the reconsideration of the same committee, for any of the causes set forth in¹ [section 16 of the Arbitration Act, 1940]. If arbitration fail, survey officer to settle dispute-If the committee appointed in the manner aforesaid fail to effect a settlement of the dispute within the time specified, it shall be the duty of the officer aforesaid, unless he or, if the said officer is a survey officer lower in rank than a Superintendent of Survey, the Superintendent of Survey see fit to extend the time, to settle the same as otherwise provided in this Act.

1. Substituted by Gujarat 35 of 1965.

121. Effect of the settlement of a boundary. :-

(1) The settlement of a boundary under any of the foregoing provisions of this chapter shall be determinative-

(a) of the proper position of the boundary line or boundary marks, and

(b) of the rights of the landholders on either side of the boundary fixed in respect of the land adjudged to appertain, or not to appertain, to their respective holdings.

(2) Where a boundary has been so fixed, the Collector may at any time summarily evict any landholder who is wrongfully in possession of any land which has been adjudged in the settlement of boundary not to appertain to his holding or to the holding of any person through or under whom he claims.

122. Construction and repair of boundary marks of survey numbers and villages. :-

It shall be lawful for any survey officer, authorised by a Superintendent of Survey or Settlement Officer, to specify or cause to be constructed, laid out, maintained or repaired boundary marks of villages of survey numbers or subdivisions of survey numbers whether cultivated or uncultivated, and to assess all charges incurred thereby on the holders or others having an interest therein. Requisition on landholders to erect or repair boundary-marks.- Such officer may require landholders to construct, lay out,

maintain or repair their boundary-marks, by a notification which shall be posted in the chavdi or other public place in the village, to which the lands under survey belong directing the holders of survey numbers or sub-divisions to construct, lay out, maintain or repair, within a specified time, the boundary-marks of their respective survey numbers or sub-divisions and on their failure to comply with the requisition so made, the survey officer shall then construct, lay out or repair them and assess all charges incurred thereby as hereinbefore provided. A general notification to be good and sufficient notice of requisition.-A general notification, issued in the manner aforesaid, shall be held to be good and sufficient notice to each and every person having any interest in any survey numbers or sub-divisions within the limits of the lands to which the survey extends. Description of boundary marks.-The boundary marks shall be of such description, and shall be constructed, laid out, maintained or repaired in such manner and shall be of such dimensions and materials as may, subject to rules made in this behalf, under section 214, be determined by the Superintendent of Survey, according to the requirement of soil and climate.

123. Responsibility for the maintenance of boundary-marks.

:-

Every landholder shall be responsible for the maintenance and good repair of the boundary marks of his holding, and for any charges reasonably incurred on account of the same by the revenue officers in cases of alteration, removal, or disrepair. It shall be the duty of the village officers and servants to prevent the destructions or unauthorised alteration of the village boundary-marks.

124. Collector to have charge of boundary marks after introduction of the survey settlement. :-

When the survey settlement shall have been introduced into a district, the charge of the boundary marks, shall devolve on the Collector and it shall be his duty to take measures for their construction laying out, maintenance and repair, and for this purpose the powers conferred on survey officers by section 12 shall vest in him.

125. Penalty for injuring boundary-marks. :-

Any person convicted after a summary inquiry before the Collector or, before a survey officer, Mamlatdar, or Mahalkari, of wilfully erasing, removing or injuring a boundary marks, shall be liable to a fine not exceeding fifty rupees for each mark so erased, removed or

injured. One-half of every fine imposed under this section may be awarded by the officer imposing it to the informer, if any, and the other half shall be chargeable with the cost of restoring the mark.

CHAPTER 10

OF LANDS WITHIN THE SITES OF VILLAGES, TOWNS AND CITIES

126. Limits of sites of villages, towns and cities how to be fixed. :-

It shall be lawful for the Collector or for a survey officer, acting under the general or special orders of the State Government, to determine what lands are included within the site of any village, town, or city, and to fix, and from time to time to vary the limits of the same, respect being had to all subsisting rights of landholders.

127. Act XI of 1852 and Bombay Acts II and VII of 1863 how far applicable to lands in such sites. :-

Act XI of 1852 and Bombay Acts II and VII of 1863 shall be deemed to be applicable, and to have always been applicable, in the territories to which they respectively extend, to all lands within the limits of the site of any town or city in which an inquiry into titles has been made under the provisions of Bombay Act IV of 1868 which have been hitherto ordinarily used for agricultural purposes only; but the provisions of the said Acts shall not be deemed applicable to any other lands within the limits of the site of any such town or city.

128. Existing exemption when to be continued in case of certain lands in towns and cities in which Bombay Act IV of 1868 has been in operation. :-

¹[(1)] The existing exemption from payment of land revenue of lands other than lands which have hitherto been ordinarily used for purposes of agriculture only, situate within the sites of towns and cities in which an inquiry, into titles has been made under the provisions of Bombay Act IV of 1868 shall be continued-

First-if such lands are situated in any town or city where there has been in former years a survey which the State Government recognize for the purpose of this section, and are shown in the maps or other records of such survey as being held wholly or partially exempt from the payment of land revenue;

Second-if such lands have been held wholly or partially exempt from the payment of land revenue for a period of not less than five

years before the application of Bombay Act I of 1865, or IV of 1868 to such town or city;

Third-if such lands, for whatever period held, have been held wholly or partially exempt from payment of land revenue under a deed of grant or of confirmation issued by an officer whom the State Government recognize as having been competent to issue such deed.

2 [(2) The existing exemption from payment of land revenue continued under sub-section (1) in respect of lands specified in that sub-section shall with effect on and from 1st August 1981 stand discontinued.]

1. Re-numbered by Gujarat 24 of 1981.
2. Added by Gujarat 24 of 1981.

129. Right to exemption to be determined by the Collector.

:-

(1) Claims to exemption¹ [under sub-section (1) of section 128] shall be determined by the Collector after a summary inquiry, and his decision shall be final.

(2) Any suit instituted in a Civil Court to set aside any order passed by the Collector under sub-section (1), in respect of any land situate within the site of a village, town or city, shall be dismissed (although limitation has not been set up as a defence) if it has not been instituted within one year from the date of the order.

1. Substituted by Gujarat 24 of 1981.

130. Occupancy price payable, in addition to assessment in certain cases. :-

In towns and cities to which¹ [Sub-section (1) of section 128] applies, the sub-section (1) of holders of any lands other than lands which have hitherto been used for purposes of agriculture only, which have been unauthorisedly occupied for a period commencing less than two years before Bombay Act I of 1865 or IV of 1868 was applied to the Town or city in which the said lands are situate, shall be liable to pay a price for the said lands in addition to the land revenue assessed thereupon. The said price shall be determined according to the provisions of section 62.

1. Substituted by Gujarat 24 of 1981.

131. Survey of lands in such sites how to be conducted. :-

If the State Government shall at any time deem it expedient to direct a survey of the lands other than those used ordinarily for the purposes of agriculture only within the site of any village, town, or city under the provisions of section 95, or a fresh survey thereof under the provisions of section 106, such survey shall be conducted, and all its operations shall be regulated, according to the provisions of Chapters VIII and IX of this Act:

Provided that nothing contained in section 96, 97, 101, 104, or 118 thereof shall be considered applicable to any such survey in any town or city containing more than two thousand inhabitants.

132. In certain cases a survey-fee to be charged. :-

When a survey is extended under the provisions of the last preceding section to the site of any town or city containing more than two thousand inhabitants, each holder of a building site shall be liable to the payment of a survey fee to be assessed by the Collector under such rules as may be prescribed in this behalf from time to time by the State Government,

provided that the said fee shall in no case exceed such amount for each building site or any portion thereof held separately as the State as the State Government may, having regard to the cost ordinarily incurred in such survey operations, specify in shore rules. The said survey-fee shall be payable within six months from the date of a public notice to be given in this behalf by the Collector after the completion of the survey of the site of the town or city, or of such part thereof as the notice shall refer to.

133. Sanad to be granted without extra charge. :-

Every holder of a building site as aforesaid shall be entitled, after payment of the said survey-fee, to receive from the Collector without extra charge one or more sanads, in the form of Schedule H, or to the like effect specifying by plan and description the extent and conditions of his holding:

Provided that if such holder do not apply for such sanad or sanads at the time of payment of the survey fee or thereafter within six months from the date of the public notice issued by the Collector under the last preceding section, the Collector may require him to pay an additional fee not exceeding one rupee for each sanad. Every such sanad shall be executed on behalf of the Government by such officer as may from time to time be lawfully empowered to execute the same.

134. Assessment of lands hitherto used for purpose of agriculture only used for other purposes. :-

If any land within the site of any village, town, or city, hitherto ordinarily used for agricultural purposes only, with respect to which a summary settlement has been made between the Government and the holder under the provisions, of any law for the time being in force, be used for any other purposes, it shall be liable to payment of one-eighth or the rate fixed for unalienated land used for similar purposes in the same locality, in addition to the quit-rent payable under the terms of such summary settlement.

135. . :-

Repealed]

CHAPTER 10A

OF THE RECORD OF RIGHTS

135A. Exemption from provisions of this chapter. :-

The State Government may, by notification in the Official Gazette, direct that this Chapter, or any specified provisions thereof, shall not be in force in any specified local area, or with reference to any lands or any class of villages or lands, or generally.

135B. The record of rights. :-

(1) A record of rights shall be maintained in every village and such record shall include the following particulars:-

(a) the names of all persons other than tenants who are holders, occupants, owners or mortgages of the land or assignees of the rent or revenue thereof;

(b) the nature and extent of the respective interests of such persons and the conditions or liabilities (if any) attaching thereto;

(c) the rent or revenue (if any) payable by or to any of such persons;

(d) such other particulars as the State Government may prescribe by rules made in this behalf;

(2) Provided that the said particulars shall be entered in the record of rights with respect to perpetual tenancies, and also with respect to tenancies of any other classes to which the State Government may, by notification in the Official Gazette, direct that the provisions of this section shall apply in any local area or generally.

135C. Acquisition of rights to be reported. :-

Any person acquiring by succession, survivorship, inheritance, partition, purchase, mortgage, gift, lease or otherwise, any right as holder, occupant, owner, mortgagee, landlord or tenant of the land, or assignee of the rent or revenue thereof,¹ [shall report in writing] his acquisition of such right to the village accountant within three months from the date of such acquisition, and the said village accountant shall at once give a written acknowledgment of the receipt of such report to the person making it:

Provided that where the person acquiring the right is a minor or otherwise disqualified, his guardian or other person having charge of his property shall make the report to the village accountant: Provided further that any person acquiring a right by virtue of a registered document shall be exempted from the obligation to report to the village accountant.

Explanation I.-The rights mentioned above include a mortgage without possession, but do not include an easement or a charge not amounting to a mortgage of the kind specified in section 100 of the Transfer of Property Act, 1882 (IV of 1882).

Explanation II.-A person in whose favour a mortgage is discharged or extinguished or lease determines, acquires a right within the meaning of this Section.

1. Substituted by Gujarat 2 of 1987.

135D. Register of mutations and register of disputed cases.

:-

1

[(1) The village accountant shall enter in a register of mutations every report made to him under section 135C or any intimation of acquisition or transfer of any right of the kind mentioned in section 135C received from the Mamlatdar or a Court of Law.]

(2) Whenever a village accountant makes an entry in the register of mutations he shall at the same time post up a complete copy of the entry in a conspicuous place in the chavdi, and shall give written intimation to all persons appearing from the record of rights or register of mutations to be interested in the mutation, and to any other person whom he has reason to believe to be interested therein.

(3) Should any objection to any entry made under sub-section (1)

in the register of mutations be made²[x x x] or in writing to the village accountant, it shall be the duty of the village accountant to enter the particulars of the objection in a register of disputed cases³ [and to give a written acknowledgement of the receipt of such objection to the person making it.]

(4) Orders disposing of objections entered in the register of disputed cases shall be recorded in the register of mutations by such officers and in such manner as may be prescribed by rules made by the State Government in this behalf.

(5) The transfer of entries from the register of mutations to the record of rights shall be effected subject to such rules as may be made by the State Government in this behalf:

provided that an entry in the register of mutations shall not be transferred to the record of rights until such entry has been duly certified.

(6) Entries in register of mutations how to be certified.- Entries in the register of mutations shall be tested and if found correct or after correction, as the case may be, shall be certified by a revenue officer of rank not lower than that of a Mamlatdars' first Karkun.

(7) Tenancies.-The provisions of this section shall apply in respect of perpetual tenancies and also in respect of any tenancies mentioned in a notification under sub-section (2) of section 135-B, but the provisions of this section shall not apply in respect of other tenancies, which shall be entered in a register of tenancies, in such manner and under such procedure as the State Government may prescribe by rules made in this behalf.

1. Substituted by Gujarat 2 of 1987. Before substitution sub-section (1) of s. 135-D was as under:- "(1) The village accountant shall enter in a register of mutations every report made to him under section 135-C and shall also make an entry therein respecting the acquisition of any right of the kind mentioned in the first paragraph of section 135-C which he has reason to believe, to have taken place, and of which a report has not been made to him under the said section."

2. Deleted by Gujarat 2 of 1987.

3. Added, by Gujarat 2 of 1987.

135E. Obligation to furnish information. :-

(1) Any person whose rights, interests or liabilities are required to be or have been entered in any record of register, under this

Chapter shall be bound, on the requisition of any revenue officer or village accountant engaged in compiling or revising the record of register, to furnish or produce for his inspection, within one month from the date of such requisition all such information or documents needed for the correct compilation or revision thereof as may be within his knowledge or in his possession or power.

(2) A revenue officer or village accountant to whom any information is furnished or before whom any document is produced in accordance with requisition under sub-section (1) shall at once give a written acknowledgment thereof to the person furnishing or producing the same and shall endorse on any such document a note under his signature, stating the fact of its production and the date thereof.

135F. Penalty for neglect to afford information. :-

Any person neglecting to make the report required by section 135-C, or furnish the information or produce the documents required by section 135-E within the prescribed period shall be liable, at the discretion of the Collector, to be charged a fee not exceeding twenty-five rupees, which shall be leviable as an arrear of land revenue.

135G. Requisition of assistance in preparation of maps. :-

Subject to rules made in this behalf by State Government-

(a) any revenue officer or village accountant may for the purpose of preparing or revising any map or plan required for or in connection with any record or register under this Chapter exercise any of the powers of a survey officer under sections 96 and 97, except the powers of assessing the cost of hired labour under section 97, and

(b) any revenue officer of a rank not lower than that of an Assistant or Deputy Collector or of a survey officer may assess the cost of the preparation or revision of such map or plan and call contingent expenses, including the cost of clerical labour and supervision, on the lands to which such maps or plan relate, and such costs shall be recoverable as revenue demand.

135H. Certified copy of record to be annexed to plaint or application. :-

(1) The plaintiff or applicant in every suit or application as hereinafter defined relating to land situated in any area to which this Chapter applies shall annex to the plaint or application a

certified copy of any entry in the record of rights, register of mutations or register of tenancies relevant to such land.

(2) If the plaintiff or applicant fails so to do for any cause which the court or conciliator deems sufficient, he shall produce such certified copy within a reasonable time to be fixed by the Court or conciliator, and if such certified copy is not so annexed or produced the plaint or application shall be rejected, but the rejection thereof shall not of its own force preclude the presentation of a fresh plaint in respect of the same cause of action or of a fresh application in respect of the same subject- matter with a certified copy annexed.

(3) After the disposal of any case in which a certified copy of any such entry has been recorded, Court shall communicate to the Collector any error appearing in such entry and any alteration therein that may be required by reason of the decree or order, and a copy of such communication shall be kept with the record. The Collector shall in such case cause the entry to be corrected in accordance with the decree or decision of the court, so far as it adjudicates upon any right required to be entered in the record of rights, register of mutations or register of tenancies. The provisions of this sub-section shall apply also to an appellate or revisional Court:

provided that, in the case of an appellate or revisional decree or order passed by the High Court, the communication shall be made by the Court from which the appeal lay or the record was called for.

(4) In this section-

(a) "suit" means a suit to which the provisions of the Code of Civil Procedure, 1908 (V of 1908) or of the Mamlatdar's Courts Act, 1906 (Bombay II of 1906), apply;

(b) "application" means an application-

(i) for the execution of a decree or order in a suit;

(ii) for the filing of an agreement stating case for the opinion of the Court under the Code of Civil Procedure, 1908 (V of 1908);

(iii) for the filing of an agreement to refer to arbitration under¹[Section 20 of the Arbitration Act, 1940 (X of 1940)];

(iv) for the filing of an award under² [section 14 of the Arbitration Act, 1940];

(v) to a conciliator under section 39 of the Dekkhan Agriculturists' Relief Act, 1879 (XVII of 1879);

(vi) of any other kind to which the State Government may, by notification in the Official Gazette direct that this section shall apply;

(c) an application shall be deemed to relate to land if the decree or other matter, with respect to which the application is made, relates to land;

(d) a suit, decree or other matter relating to land shall, without prejudice to the generality of the expression, be deemed to include a suit, decree or other matter relating to the rent or tenancy of land.

1. Substituted by Gujarat 35 of 1965.

2. Substituted by Gujarat 35 of 1965.

135I. Refusal of assistance under section 87. :-

Notwithstanding anything in section 87, the Collector shall refuse assistance to any superior holder under the said section, if his claim to such assistance is not supported by an entry or entries duly made in the record of rights, register of mutations or register of tenancies.

135J. Presumption of correctness of entries in record of rights and register of mutations. :-

An entry in the record of rights, and a certified entry in the register of mutations shall be presumed to be true until the contrary is proved or a new entry is lawfully substituted therefor.

135K. Certified copies. :-

Applications for certified copies of entries in the record of rights, the register of mutations and the register of tenancies may be made to, and such copies may be given by the village accountant, Mahalkari or Mamlatdar.

135L. Bar of suits and exclusion of Chapter XIII Appeal. :-

(1) No suit shall lie against the Government or any officer of Government in respect of a claim to have an entry made in any record or register that is maintained under this Chapter, or to have any such entry omitted or amended, and the provisions of Chapter XIII shall not apply to any decision or order under this Chapter.

(2) Appeal-The correctness of the entries in the record of rights and

register of mutations shall be inquired in to and the particulars thereof revised, by such Revenue officers and in such manner and to such extent and subject to such appeal as the State Government may from time to time by rules prescribed in this behalf.

CHAPTER 10B

OF THE AGRICULTURIST PASS BOOK

135LL. Application. :-

1

(1) This chapter shall apply to such taluka in a district as the State Government may, by notification in the Official Gazette, specify.

(2) This chapter shall cease to apply to such taluka in a district as the State Government may, by notification in the Official Gazette, specify.

(3) This chapter shall re-apply to such taluka in a district as the State Government may, by notification in the Official Gazette.]

1. Inserted by Gujarat 9 of 1995.

135M. Preparation and supply of agriculturist pass- book. :-

1

(1) In respect of every agriculturist holding land in a village or group of villages²[in a tahika to which this Chapter is applied under sub-section (1) or re-applied under sub-section (3) of section 135LL and for which a competent authority is appointed], there shall be prepared by the³[competent authority] an agriculturist pass-book in duplicate in such form and containing particulars as to rights recorded in the record of rights and such other particulars (including the particulars regarding sub- sisting mortgages of land, the total amount of mortgage money and the amount of interest due thereon) as may be prescribed by rules made under this Act.]

4 [(2)

(a).-The agriculturist pass-book shall be supplied to the agriculturist holding land in a taluka to which this Chapter is applied under sub-section (1) or re-applied under sub-section (3) of section 135LL.

(b) The pass-book shall be supplied under clause (a)-

(i) within such period from the date on which this Chapter is applied or re-applied to the taluka as the State Government may,

by notification in the Official Gazette. specify; and

(ii) on payment of such fees as may be prescribed by rules made under this Act.

(c) The duplicate agriculturist pass-book shall be retained by the competent authority.]

(3) The particulars referred to in sub-section (1) shall be with reference to such date as the State Government may, by notification in the Official Gazette., specify.

1. Inserted by Gujarat 2 of 1987.

2. Substituted by Gujarat 9 of 1995.

3. Substituted by Gujarat 9 of 1995.

4. Substituted by Gujarat 9 of 1995.

135N. Agriculturist pass-book to accompany application for financial assistance. :-

¹No bank shall entertain an application by an agriculturist for grant of financial assistance unless such an application is accompanied by his agriculturist pass-book.

Explanation.-In this section²[and sections 1350 and 135R], the expression "bank" means-

(i) a banking company as defined in the Banking Regulation Act, 1949 (X of 1949);

(ii) the State Bank of India constituted under the State Bank of India Act, 1955 (XXIII of 1955);

(iii) a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (XXXIII of 1959);

(iv) a corresponding new bank constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (V of 1970)³[or the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980)];

(v) any banking institution notified by the Central Government under section 51 of the Banking Regulation Act, 1949 (X of 1949);

(vi) the Agricultural Refinance and Development Corporation constituted under the Agricultural Refinance and Development Corporation Act, 1963 (X of 1963);

(vii) any Agro-Industries Corporation;

(viii) the Agricultural Finance Corporation Limited, a company incorporated under the Companies Act, 1956 (1 of 1956);

(ix) a co-operative bank;

4 [(ixa) a co-operative society registered under the Gujarat Cooperative Societies Act, 1961 (10 of 1962);

(ixb) a panchayat constituted under the Gujarat Panchayats Act, 1993 (18 of 1993).]

(x) any other financial institution notified by the State Government in the Official Gazette as a bank, for the purposes of this Act.]

1. Added by Gujarat 2 of 1987.
2. Substituted by Gujarat 9 of 1995.
3. Inserted by Gujarat 9 of 1995.
4. Inserted by Gujarat 9 of 1995.

1350. Entries in agriculturist pass-book by banks. :-

1

(1) Whenever an agriculturist mortgages or creates a charge on his land or any interest therein in favour of a bank for the purpose of obtaining financial assistance from that bank, or

(2) whenever an agriculturist redeems any mortgage or a charge on his land or any interest therein by payment of mortgage money, the bank shall-

(a) make necessary entries in the agriculturist pass-book of the agriculturist and thereafter return the pass-book to the agriculturist, and

(b)

(i) in the case falling under clause (1) report in writing of its acquisition of right as mortgagee to the²[competent authority] in accordance with the provisions of section 135C, and

(ii) in the case falling under clause (2) report in writing of the redemption of mortgage to the³ [competent authority] in accordance with the provisions of section 135C.]

1. Added by Gujarat 2 of 1987.
2. Substituted by Gujarat 9 of 1995.
3. Substituted by Gujarat 9 of 1995.

13500. Document for registration of transfer of agricultural

land to accompany the agriculturist pass-book. :-

1 _

(1) No document of transfer of any agricultural land by sale, purchase, gift mortgage whether with or without possession, exchange, partition, lease, surrender or otherwise shall be registered by any registering authority to a taluka to which this Chapter is applied under sub-section (1) or re-applied under sub-section (3) of section 135 LL unless such document is accompanied by the agriculturist pass-book relating to such land.]

(2) The registering authority shall after registering such document make necessary entries in the agriculturist pass-book of the agriculturist and thereafter return the pass-book to the agriculturist.

(3) The registering authority shall makes report in writing of such registration to the competent authority.

1. Inserted by Gujarat 9 of 1995.

135000. Responsibility of competent authority. :-

1 -Thecompetent authority shall be responsible to keep, the agriculturist pass-book and the duplicate agriculturist pass-book retained by it, up-to-date by making necessary entries therein as provided in sections 135P and 135Q, respectively.]

1. Inserted by Gujarat 9 of 1995.

135P. Agriculturists pass-book to be kept up-to-date. :-

1 Whenever entries are transferred from the register of mutations to the record of rights under section 135D, the competent authority shall call for the agriculturist pass-book from the concerned agriculturist and thereupon the agriculturist shall produce the agriculturist pass-book before the competent authority within such period as may be prescribed by rules made under this Act and on such production of pass-book, the competent authority shall make entries therein, corresponding to those in the record of rights and keep such pass-book up-to-date.]

1. Substituted by Guj, 9 of 1995.

135Q. Duplicate agriculturist pass-book to be kept up- to-date. :-

1The²[competent authority] shall also keep the duplicate agriculturist pass-book retained by him up-to-date by making

necessary entries therein, from time to time, after verifying the entries from the original agriculturist pass-book and for that purpose, he may, from time to time, call for the original agriculturist pass-book from the agriculturist whereupon it shall be the duty of the agriculturist to forward his agriculturist pass-book to the³ [competent authority.]

1. Inserted by Gujarat 2 of 1987.
2. Substituted by Gujarat 9 of 1995.
3. Substituted by Gujarat 9 of 1995.

135R. Mode of proof of entries in agriculturist pass- book. :-

¹ -A certified copy of any entry not being an entry made by a bank or registering authority in-

- (a) the agriculturist pass-book of the agriculturist,
- (b) the agriculturist pass-book of the agriculturist,

shall in all legal proceedings be received as prima facie evidence of the existence of such entry and shall be admitted as evidence of the matters, transactions and accounts therein recorded to the same extent as the original entry itself in the record of rights but not further or otherwise.]

1. Substituted by Gujarat 9 of 1995.

135S. Penalty for contravention of section 135P. :-

¹ -Any agriculturist who contravenes the provision of section 135P shall be punished with fine which may extend to two hundred rupees.

1. Added, by Gujarat 9 of 1995.

135T. Penalty for unauthorised alteration in pass-book or furnishing false information. :-

¹ -Any person who unauthorisedly makes, alters or deletes any entry in the pass-book or furnishes false information to the competent authority in relation to the pass- book shall be punished with fine which may extend to one thousand rupees.

Explanation.-For the purposes of this Chapter-

- (i) the expression 'agriculturist' means land holder who holds land for the purpose of agriculture;
- (ii) the expression 'competent authority' means such revenue officer as the State Government may, by notification in the Official Gazette, appoint;

(in) the expression 'registering authority' means the registering officer appointed under the Registration Act, 1908".]

1. Added, by Gujarat 9 of 1995.

CHAPTER 11

OF THE REALIZATION OF THE LAND REVENUE AND OTHER REVENUE DEMANDS

136. Liability for land revenue. :-

(1) In the case of un- alienated land the occupant and in the case of alienated land the superior holder, shall be primarily liable to the State Government for the payment of the land revenue, including all arrears of land revenue, due in respect of the land. Joint occupants and joint holders who are primarily liable under this section shall be jointly and severally liable:

¹[Provided that in the case of any land in the possession of a tenant, if such tenant is liable to pay land revenue in respect of such land under the provisions of the Bombay Tenancy and Agricultural Lands Act, 1948, (Bombay L Xvii of 1948),² [or as the case may be the Bombay Tenancy and Agricultural Lands (Vidarbha Region and Kutch Area) Act, 1958 (Bombay Xix of 1958)] such tenant shall be primarily liable for the payment of the land revenue in respect of such land.]

(2) In case of default by any person who is primarily liable under this section the land revenue, including arrears as aforesaid, shall be recoverable from any person in possession of the land:

Provided that where such person is a tenant, the amount recoverable from him shall not exceed the demands of the year in which the recovery is made: Provided further that, when land revenue is recovered under this section from any person who is not primarily liable for the same such person shall be allowed credit for any payments which he may have duly made to the person who is primarily liable, and shall be entitled to credit, for the amount recovered from him, in account with the person who is primarily liable.

1. Added by Bombay LXVII of 1948.

2. Inserted by Gujarat 35 of 1965.

137. Claims of State Government to have precedence over all others. :-

The claim of the State Government to any moneys recoverable

under the provisions of this Chapter, shall have precedence over any other debt, demand, or claim whatsoever, whether in respect of mortgage, judgment-decree, execution or attachment or otherwise howsoever, against any land or the holder thereof.

138. The liability of the crop for the revenue of the land. :-

In all cases the land revenue for the current years of land used for agricultural purposes, if not otherwise discharged shall be recoverable, in preference to all other claims, from the crop of the land subject to the same.

139. Land revenue may be levied at any time during the revenue year. :-

The land revenue shall be leviable on or at any time after the first day of the revenue year for which it is due; but, except when precautionary measures are deemed necessary under the provisions of sections 140 to 144, payment will be required only on the dates to be fixed under the provisions hereinafter contained.

140. Removal of crop which has been sold, etc., may be prevented until revenue paid. :-

When the crop of any land or any portion of the same is sold, mortgaged or otherwise disposed of, whether by order of a Civil Court or other public authority or by private agreement, the Collector may prevent its being removed from the land until the demands for the current year in respect of the said land have been paid, whether the date fixed for the payment of the same under the provisions hereinafter contained, has yet arrived or not. But in no case shall a crop or any portion of the same, which has been sold, mortgaged or otherwise disposed of, be detained on account of more than the demands of the year in which the detention is made. anything but the crop of the land, or the seizure of the crop or any other goods after removal from the land. 37 Bom 542=20 Ind Cas 526=15 Bom LR665.

141. In order to secure the land revenue the Collector may prevent the reaping of the crop, or. :-

It shall be lawful for the Collector in order to secure the payment of the land revenue by enforcement of the lien of the State Government on the crop-

(a) to require that the crop growing on any land liable to the payment of land revenue shall not be reaped until a notice in writing has first been given to himself or to some other officer to be

named by him, in this behalf, and such notice has been returned endorsed with an acknowledgment of its receipt;

(b) the removal thereof, or to direct that no such crop shall be removed from the land on which it has been reaped, or from any place in which it may have been deposited, without the written permission of himself or of some other officer as aforesaid;

(c) place watchmen over it to cause watchmen to be placed over any such crop to prevent the unlawful reaping or removal of the same, and to realize the amount required for the remuneration of the said watchmen, at such rate not exceeding the rate of pay received by the peons on his establishment he may deem fit, as an arrear of land revenue due in respect of the land to which such crop belongs.

142. Collectors orders under last section how to be made known Penalty for disobedience of order. :-

The Collector's orders under either clause (a) or clause (b) of the last preceding section may be issued generally to all the holders of land paying revenue to State Government in a village or to individual holders merely. If the order be general, it shall be made known by public proclamation to be made by beat of drum in the village and by affixing a copy of the order in the chavdi or some other public building in the village. If it be to individual holders, a notice thereof shall be served on each holder concerned. Penalty for disobedience of order—Any person who shall disobey any such order after the same has been so proclaimed, or a notice thereof has been served upon him or, who shall within the meaning of the Indian Penal Code, abet the disobedience of any such order, shall be liable, on conviction after a summary inquiry by the Collector, to a fine not exceeding double the amount of the land revenue due on the land to which the crop belongs in respect of which the offence is committed.

143. Reaping, etc., not to be unduly deferred, unduly of crop when to be released. :-

The Collector shall not defer the reaping of the crop, nor prolong its deposit unduly, so as to damage the produce; and if within two months after the crop has been deposited the revenue due has not been discharged, he shall either release the crop and proceed to realize the revenue in any other manner authorised by this Chapter or take such portion thereof as he may deem fit, for sale under the provisions of this Chapter applicable to sales of movable property in

realization of the revenue due and of all legal costs, and release the rest.

144. Temporary attachment and management of a village or share of a village. :-

If owing to disputes amongst the sharers, or for other cause, the Collector shall deem that there is reason to apprehend that the land revenue payable in respect of any holding consisting of an entire village or of a share of a village will not be paid as it falls due, he may cause the village or share of a village to be attached and taken under the management of himself or any agent whom he appoints for that purpose. Powers of manager, and disposal of surplus profits.- The provisions of section 160 shall apply to any village or share of a village so attached, and all surplus profits of the land attached, beyond the cost of such attachment and management, including the payments of the land revenue and the cost of the introduction of a revenue survey, if the same be introduced under the provisions of section 111, shall be kept in deposit for the eventual benefit of the person or persons entitled to the same, or paid to the said person or persons from time to time as the Collector may direct.

145. Precautionary measures to be relinquished on security being furnished. :-

The precautionary measures authorised by the last five sections shall be relinquished if the person primarily responsible for the payment of revenue or any person who would be responsible for the same if default were made by the person primarily responsible shall pay the costs, if any, lawfully incurred by the Collector upto the time to such relinquishment, and shall furnish security satisfactory to the Collector for the payment, of the revenue, at the time at which or in the installments, if any, in which, it is payable under the provisions hereinafter contained.

146. State Government to determine the dates, etc., on which land revenue shall be payable :-

Land revenue, except when it is recovered under the provisions of the foregoing sections 140 to 144, shall be payable at such times, in such installments, to such persons and at such places as may from time to time be determined by the orders of the State Government.

147. Arrear defaulters. :-

Any sum not so paid becomes thereupon an arrear of land revenue,

and the persons responsible for it, whether under the provisions of section 136 or of any other section, become defaulters.

148. Liabilities incurred by default. :-

If any installments of land revenue be not fully paid within the prescribed time, it shall be lawful for the Collector to impose as a penalty, or as interest such charge on such installments, and on the arrears, if any of former years, as may be authorized according to a scale to be fixed from time to time under the orders of the State Government, and further to proceed to levy at once the entire balance of land revenue due by the defaulter for the current year:

Provided that no such charge shall be imposed on any installment, the payment of which has been suspended by order of the State Government, in respect of the period during which the payment remained suspended.

149. Certified account to be evidence as to arrears. :-

A statement of account, certified by the Collector or by an Assistant or Deputy Collector, shall, for the purposes of this Chapter, be conclusive evidence of the existence of the arrear of the amount of land revenue due, and of the person who is the defaulter. Collectors may realize each other's demands.-On receipt of such certified statement, it shall be lawful for the Collector of one district to proceed to recover the demands of the Collector of any other district under the provisions of this Chapter as if the demand arose in his own district.

150. Process for recovery of arrears. :-

An arrear of land revenue may be recovered by the following processes-

(a) by serving a written notice of demand on the defaulter under section 152;

(b) by forfeiture of the occupancy or alienate holding in respect of which the arrear is due under section 153;

(c) by distraint and sale of the defaulter's movable property under section 154;

(d) by sale of the defaulter's immovable property under section 155;

(e) by arrest and imprisonment of the defaulter under sections 157 and 158;

(f) in the case of alienated holding consisting of entire villages, or shares of villages, by attachment of the said villages or shares of villages under sections 159 to 163.

151. Revenue demands of former years how recoverable. :-

The said processes may be employed for the recovery of arrears of former years as well as of the current year, but the preferences given by sections 137 and 138 shall apply only to demands for the current year:

Provided that any process commenced in the current year shall be entitled to the said preferences, notwithstanding that it may not be fully executed within that year.

152. When notice of demand may issue. :-

A notice of demand may be issued on or after the day following that on which the arrear accrues. The State Government may from time to time frame rules for the issue of such notices, and shall fix the costs recoverable from the defaulter as an arrear of revenue, and direct by what officer such notices shall be issued.

153. The occupancy or alienated holding for which arrear is due may be forfeited. :-

The Collector may declare the occupancy or alienated holding in respect of which an arrear of land revenue is due, to be forfeited to the State Government, and sell or otherwise dispose of the same under the provisions of sections 56 and 57, and credit the proceeds, if any, to the defaulter's accounts:

Provided that the Collector shall not declare any such occupancy or alienated holding to be forfeited-

(a) unless previously thereto he shall have issued a proclamation and written notices of the intended declaration in the manner prescribed by sections 165 and 166 for sales of immovable property, and

(b) until after the expiration of at least fifteen days from the latest date on which any of the said notices shall have been affixed as required by section 166.

154. Distraint and sale of defaulters moveable property. :-

The Collector may also cause the defaulter's movable property to be distrained and sold. By whom to be made-Such distraint shall be made by such officers or class of officers as the¹ [Collector] under

the orders of the State Government may from time to time direct.

1. Substituted by Bombay 28 of 1950.

155. Sale of defaulters immovable property. :-

The Collector may also cause the right, title and interest of the defaulter in any immovable property other than the land on which the arrears is due to be sold.

156. Exemption from distraint and sale. :-

All such property as is by the Civil Procedure Code exempted from attachment or sale in execution of a decree, shall also be exempt from distraint or sale, under either of the last two preceding sections. The Collector's decision as to what property is so entitled to exemption shall be conclusive.

157. Arrest and detention of defaulter. :-

1

(1) At any time after an arrear becomes due, the defaulter (not being an agriculturist from whom such arrear in respect of his occupancy is due) may be arrested and detained in custody for ten days in the office of the Collector or of a Mamlatdar unless the revenue dues together with the penalty or interest and the cost of arrest and of notice of demand, if any, and the cost of his subsistence during detention is sooner paid :

Provided that no such arrest shall be made unless the default is willful and the defaulter is given an opportunity to show cause against his arrest and detention.

(2) If, on the expiry of ten days the amount due by the defaulter is not paid, then, or if the Collector deems fit on any earlier day, he may be sent by the Collector with a warrant, in the form of Schedule C for imprisonment in the civil jail of the district:

Provided that no defaulter shall be detained in imprisonment for a longer period than the time by law in the case of the execution of a decree of civil court for a debt equal in amount to the arrear of revenue due by such defaulter.] *Before substitution, section 157 was as under:- "157. Arrest and detention of defaulter.-At any time after an arrear becomes due, the defaulter may be arrested and detained in custody for ten days in the office of the Collector or of a Mamlatdar or Mahalkari, unless the revenue due together with the penalty or interest and the costs of arrest and of notice of demand, if any, have issued and the cost of his subsistence during detention

is sooner paid. Imprisonment in -Civil Jail.-If, on the expiry of ten days the amount due by the defaulter is not paid, then, or if the Collector deem fit on any earlier day, he may be sent by the Collector with a. warrant, in the form of Schedule C for imprisonment in the civil jail of the district: Defaulters not to be detained in custody longer than debtors may be detained by the Civil Court.-Provided that no defaulter shall be detained in imprisonment for a longer period than the time limited by law in the case of the execution of a decree of a Civil Court for a debt equal in amount to the arrear of revenue due by such defaulter."

1. Substituted by Gujarat 6/95.

158. Power of arrest by whom to be exercised. :-

¹ [The State Government may] from time to time, declare by what officers, or class of officers, the powers of arrest conferred by section 157 may be exercised, and also fix the costs of arrest and the amount of subsistence money to be paid by the State Government to any defaulter under detention or imprisonment.

1. Substituted by Bombay 28 of 1950.

159. Power to attach defaulters village and take it under management. :-

If the holding, in respect of which an arrear is due, consists of an entire, village, or of a share of a village, and the adoption of any of the other processes before specified is deemed inexpedient, the Collector may with the previous sanction of the¹ [State Government] cause such village or share of a village to be attached and taken under the management of himself or any agent whom he appoints for that purpose.

1. Substituted by Gujarat 15 of 1964.

160. Lands of such village to revert free of encumbrances. :-

The lands of any village or share of a village so attached shall revert to the Government unaffected by the acts of the superior holder or of any of the shares, or by any charges or liabilities subsisting against such lands, or against such superior holder or shares as are interested therein, so far as the public revenue is concerned, but without prejudice in other respects to the rights of individuals; Powers of manager.-and the Collector or the agent so appointed shall be entitled to manage the lands attached, and to receive all rents and profits accruing therefrom to the exclusion of

the superior holder or any of the shares thereof, until the Collector restores the said superior holder to the management thereof.

161. Application of surplus profits. :-

All surplus profits of the lands attached, beyond the cost of such attachment and management, including the payment of the current revenue, and the cost of the introduction of a revenue survey, if the same be introduced under the provisions of section 111 shall be applied in defraying the said arrear.

162. Restoration of village so attached. :-

The village or share of a village so attached shall be released from attachment, and the management thereof shall be restored to the superior holder on the said superior holder's making an application to the Collector for that purpose at any time within twelve years from the first of August next after the attachment- if at the time that such application is made it shall appear that the arrear has been liquidated; or if the said superior holder shall be willing to pay the balance, if any still due by him, and shall do so within such period as the Collector may prescribe in that behalf. Disposal of surplus receipts.-The Collector shall make over to the superior holder the surplus receipts, if any, which have accrued in the year in which his application for restoration of the village or share of a village is made after defraying all arrears and costs; but such surplus receipts, if any, or previous years shall be at the disposal of the State Government.

163. Village, etc., to vest in the State Government if not redeemed within twelve years. :-

If no application be made for the restoration of a village or portion of a village so attached within the said period of twelve years, or if, after such application has been made, the superior holder shall fail to pay the balance, if any, still due by him within the period prescribed by the Collector in this behalf, the said village or portion of a village shall thence forward vest in the State Government free from all encumbrances created by the superior holder or any of the shares or any if his or their predecessors- in-title, or in anywise subsisting as against such superior holder or any of the shares, but without prejudice to the rights of the persons in actual possession of the land.

164. But all processes to be stayed on security being given; or on amount-demanded being paid under protest :-

Any defaulter detained in custody, or imprisoned, shall forthwith be

set at liberty and the execution of any process shall, at any time, be stayed, on the defaulter's giving before the Collector or other person nominated by him for the purpose, or if the defaulter is in jail, before the officer in charge of such jail, security in the form of Schedule D, satisfactory to the Collector, or to such other person or officer. or on amount demanded being paid under protest-And any person against whom proceedings are taken under this Chapter may pay the amount claimed under protest to the officer taking such proceedings, and upon such payment the proceedings shall be stayed.

165. Procedure in effecting sales. :-

When any sale of either movable or immovable property is ordered under the provisions of this Chapter, the Collector shall issue a proclamation, in the vernacular language of the district, of the intended sale, specifying the time and place of sale, and in the case of movable property whether the sale is subject to confirmation or not, and, when land paying revenue to the State Government, is to be sold, the revenue assessed upon it, together with any other particulars he may think necessary. Proclamation of sales.-Such proclamation shall be made by beat of drum at the head-quarters of the taluka, and in the village in which the immovable property is situate, if the sale be of immovable property; if the sale be of movable property the proclamation shall be made in the village in which such property was seized, and in such other places as the Collector may direct.

166. Notification of sales. :-

A written notice of the intended sale of immovable property, and of the time and place thereof, shall be affixed in each of the following places, viz., the office of the Collector of the district, the office of Mamlatdar or Mahalkari of the taluka or mahal in which the immovable property is situate, the chavdi or some other public building in the village in which it is situate, and the defaulter's dwelling- place. In the case of movable property, the written notice shall be affixed in the Mamlatdar's or Mahalkaris office, and in the chavdi or some other public building in the village in which such property was seized. The Collector may also cause notice of any sale, whether of movable or immovable property, to be published in any other manner that he may deem fit.

167. Sale by whom to be made. :-

Sales shall be made by auction by such persons as the Collector

may direct. Time when sale may be made.-No such sale shall take place on a Sunday or other general holiday recognized by the State Government, nor until after the expiration of at least thirty days in the case of immovable property, or seven days in the case of movable property, from the latest date on which any of the said notices shall have been affixed as required by the last preceding section. Postponement of sale.-The sale may from time to time be postponed for any sufficient reason.

168. Sale of perishable articles. :-

Nothing in the last three sections applies to the sale of perishable articles. Such articles shall be sold by auction with the least possible delay, in accordance with such orders as may from time to time be made by the Collector either generally or specially in that behalf.

169. When sale may be stayed. :-

If the defaulter, or any person on his behalf, pay the arrear in respect of which the property is to be sold and all other charges legally due by him at any time before the day fixed for the sale, to the person appointed under section 146 to receive payment of the land revenue due, or to the officer appointed to conduct the sale or if he furnishes security under section 164, the sale shall be stayed.

170. Sales of moveable property when liable to confirmation. :-

Sales of perishable articles shall be at once finally concluded by the officer conducting such sales. All other sales of movable property shall be finally concluded by the officer conducting such sales, or shall be subject to confirmation, as may be directed in orders to be made by the Collector either generally or specially in that behalf. In the case of sales made subject to confirmation, the Collector shall direct by whom such sales may be confirmed.

171. Mode of payment for moveable property when sale is concluded at once. :-

When the sale is finally concluded by the officer conducting the same, the price of every lot shall be paid for at the time of sale, or as soon as after the said officer shall direct, and in default of such payment the property shall forthwith be again put up and sold. On payment of the purchase- money the officer holding the sale shall grant a receipt for the same, and the sale shall become absolute as against all persons whomsoever.

172. Mode of payment for moveable property when sale is subject to confirmation. :-

When the sale is subject to confirmation, the party who is declared to be the purchaser shall be required to deposit immediately twenty-five per centum on the amount of his bid, and in default of such deposit the property shall forthwith be again put up and sold. The full amount of purchase money shall be paid by the purchaser before sunset of the day after he is informed of the sale having been confirmed, or, if the said day be a Sunday or other authorized holiday, then before sunset of the first office day after such day. On payment of such full amount of the purchase-money, the purchaser shall be granted a receipt for the same, and the sale shall become absolute as against all persons whomsoever.

173. Deposit by purchaser in case of sale of immoveable property. :-

In all cases of sale of immovable property, the party who is declared to be the purchaser shall be required to deposit immediately twenty five per centum on the amount of his bid, and in default of such deposit the property shall forthwith be again put up and sold.

174. Purchase-money when to be paid. :-

The full amount of purchase- money shall, be paid by the purchaser before sunset of the fifteenth day from that on which the sale of the immovable property took place, or if the said fifteenth day be a Sunday or other authorized holiday, then before sunset of the first office day after fifteenth day.

175. Effect of default. :-

In default of payment within the prescribed period of the full amount of purchase-money, whether of movable or immovable property the deposit, after defraying there out the expenses of the sale, shall be forfeited the State Government, and the property shall be re-sold, and the defaulting purchaser shall forfeit all claim to the property or to any part of the sum for which it may be subsequently sold.

176. Liability of purchaser for loss by re-sale :-

If the proceeds of the sale, which is eventually made, be less than the price bid by such defaulting purchaser, the difference shall be recoverable from him by the Collector as an arrear of land revenue.

177. Notification before re-sale. :-

Every re-sale of property in default of payment of the purchase-money, or after postponement of the first sale, shall, except when such resale takes place forthwith, be made after the issue of a fresh notice in the manner prescribed for original sales.

178. Application to set aside sale. :-

At any time within thirty days from the date of the sale of immovable property application may be made to the Collector to set aside the sale on the ground of some material irregularity, or mistake, or fraud, in publishing or conducting it; But, except as is otherwise provided in the next following section, no sale shall be set aside on the ground of any such irregularity or mistake, unless the applicant proves to the satisfaction of the Collector that he has sustained substantial injury by reason thereof. If the application be allowed, the Collector shall set aside the sale, and direct a fresh one.

179. Order confirming or setting aside sale. :-

On the expiration of thirty days from the date of the sale, if no such application as is mentioned in the last preceding section has been made, or if such application has been made and rejected, the Collector shall make an order confirming the sale:

Provided that, if he shall have reason to think that the sale ought to be set aside notwithstanding that no such application has been made, or on grounds other than those alleged in any application which has been made and rejected, he may, after recording his reasons in writing, set aside the sale.

180. Refund of deposit or purchase-money when sale set aside. :-

Whenever the sale of any property is not confirmed, or is set aside, the purchaser shall be entitled to receive back his deposit or his purchase-money, as the case may be.

181. On confirmation of sale purchaser to be put in possession Certificate of purchase. :-

After a sale of any occupancy or alienated holding has been confirmed in manner aforesaid, the Collector shall put the person declared to be the purchaser into possession of the land and shall cause his name to be entered in the land records as occupant or holder in lieu of that of the defaulter, and shall grant him a certificate to the effect that he has purchased the land to which the certificate refers.

182. Bar of suit against certified purchaser. :-

The certificate shall state the name of the person declared at the time of sale to be the actual purchaser; and any suit brought in a Civil Court against the certified purchaser on the ground that the purchase was made on behalf of another person not the certified purchaser, though by agreement the name of the certified purchaser was used, shall be dismissed.

183. Application of proceeds of sale. :-

When any sale of movable property under this Chapter has become absolute, and when any sale of immovable property has been confirmed, the proceeds of the sale shall be applied to defraying the expenses of the sale and to the payment of any arrears due by the defaulter at the date of the confirmation of such sale, and recoverable as an arrear of land revenue, and the surplus (if any) shall be paid to the person whose property has been sold. Expenses of sale how calculated-The expenses of the sale shall be estimated at such rates and according to such rules as may from time to time be sanctioned by¹ [x x x] the State Government.

1. Deleted by Gnj. 15 of 1964.

184. Surplus not to be paid to creditors except under order of Court. :-

The said surplus shall not, except under an order of a Civil Court, be payable to any creditor of the person whose property has been sold.

185. Certified purchaser liable only for land-revenue subsequently due. :-

Notwithstanding anything in section 136, the person named in the certificate of title as purchaser shall not be liable for land-revenue due in respect of the land for any period previous to the date of the sale.

186. Claims to attached movable property how to be disposed of. :-

If any claim shall be set up by a third person to movable property attached under the provisions of this Chapter, the Collector shall admit or reject his claim on a summary inquiry held after reasonable notice. If the claim be admitted wholly or partly, the property shall be dealt with accordingly. Except in so far as it is admitted the property shall be sold and the title of the purchaser shall be good for all purposes, and the proceeds shall be disposable

as hereinbefore directed.

187. What moneys leviable under the provisions of this Chapter. :-

All sums due on account of land revenue, conversion tax], all quitrents, nazranas , succession duties, transfer duties and forfeitures, and all cesses, profits from land, emoluments, fees, charges, penalties, fines and costs payable or leviable under this Act or under any Act or Regulation hereby repealed, or under any Act for the time being in force relating to land revenue; and all moneys due by any contractor for the farm of customs duties, or of any other duty or tax, or of any other item of revenue whatsoever, and all specific pecuniary penalties to which any such contractor renders himself liable under the terms of his agreement; and also all sums declared by this or by any other Act or Regulation at the time being in force or by any contract with the Government to be leviable as an assessment, or as a revenue demand, or as an arrear of land revenue; shall be levied under the foregoing provisions of this Chapter and all the foregoing provisions of this Chapter shall, so far as may be, be applicable thereto. And any money ordered by a liquidator appointed under¹[section 108 of the Gujarat Co-operative Societies Act, 1961 (Gujarat X of 1962)] to be recovered as a contribution to the assets of a society or as the costs of liquidation may, notwithstanding anything contained in²[section 103 of the said Act] be levied under the foregoing provisions of this Chapter and all the foregoing provisions of this Chapter shall, so far as may be, be applicable thereto:

Provided that every application for recovery in such manner of any such sum shall be accompanied by a certificate signed by the Registrar appointed under³ [section 3 of the said Act, that the amount may be recovered as an arrear of land revenue.] Sureties liable as revenue-defaulters.-And all persons who may have become sureties under any of the provisions of this Act or of any Act or Regulation hereby repealed, or for any such contractor as aforesaid for any sum of money shall, on failure to pay the amount or any portion thereof for which they may have become liable under the terms of their security-bond, be liable to be proceeded against under the provisions of this Chapter as revenue-defaulters and all the foregoing provisions of this Chapter shall, as far as may be, be applicable to such persons. On resumption of a farm, no payments made to contractor in advance to be admitted.-And in

the event of the resumption of any such farm as is aforesaid, no person shall be entitled to credit for any payments which he may have made to the contractor in anticipation. The recovery of free grants as arrears of revenue in case of misuse.-And any person who has received from the State Government a free grant of money for any agricultural purpose, subject to the proviso that he shall refund the same on failure to observe any of the conditions of the grant, shall, on failure to observe any such condition and to repay the said sum to the State Government, be liable to be proceeded against under the provisions of this Chapter as a revenue-defaulter, and all the foregoing provisions of this Chapter shall, so far as may be, be applicable to such person.

1. Substituted by Gujarat 35 of 1965.
2. Substituted by Gujarat 35 of 1965.
3. Substituted by Gujarat 35 of 1965.

CHAPTER 12

PROCEDURE OF REVENUE OFFICERS

188. Subordination of revenue officers. :-

In all official acts and proceedings a revenue officer shall, in the absence of any express provisions of law to the contrary, be subject as to the place, time and manner of performing his duties to the direction and control of the officer to whom he is subordinate.

189. Power to summon persons to give evidence and produce documents. :-

Every revenue officer not lower in rank than a Mamlatdar's first karkun, or an Assistant Superintendent of Survey, in their respective departments, shall have power to summon any person whose attendance he considers, necessary either to be examined as a party or to give evidence as a witness, or to produce documents for the purposes of any inquiry which such officer is legally, empowered to make. A summons to produce documents maybe for the production of certain specified documents, or for the production of all documents of a certain description in the possession of the person summoned. All persons so summoned shall be bound to attend, either in person or by an authorised agent, as such officer may direct:

Provided that exemptions under sections 132 and 133 of the Code of Civil Procedure, 1908], shall be applicable to requisitions for attendance under this section; and all persons so summoned shall be bound to state the truth upon any subject respecting which they

are examined or make statements, and to produce such documents and other things as may be required.

190. Summons to be in writing, signed and sealed. :-

Every summons shall be in writing, in duplicate, and shall state the purpose for which it is issued, and shall be signed by the officer issuing it, and if he have a seal shall also bear his seal: How to be served-and shall be served by tendering or delivering a copy of it to the person summoned or, if he cannot be found, by affixing a copy of it to some conspicuous part of his usual residence. Service in district other than that of issuer.-If his usual residence be in another district, the summons may be sent by post to the Collector of that district, who shall cause it to be served in accordance with the preceding clause of this section.

191. Mode of serving notices. :-

Every notice under this Act, unless it is otherwise expressly provided, shall be served either by tendering or delivering a copy thereof to the person on whom it is to be served or to his agent, if he have any; or by affixing a copy thereof to some conspicuous place on the land, if any, to which such notice refers. Notice not void for error.-No such notice shall be deemed void on account of any error in the name or designation of any person referred to therein, unless when such error has produced substantial injustice.

192. Procedure for procuring attendance of witnesses. :-

In any formal or summary inquiry if any party desires the attendance of witnesses, he shall follow the procedure prescribed by the Code of Civil Procedure, 1908, (V of 1908), for parties applying for summonses for witnesses.

193. Mode of taking evidence in formal inquiries. :-

In all formal inquiries the evidence shall be taken down in full, in writing, in the language in ordinary use in the district, by, or in the presence and hearing and under the personal superintendence and direction of, the officer making the investigation or inquiry, and shall be signed by him. In cases in which the evidence is not taken down in full in writing by the officer making the inquiry he shall, as the examination of each witness proceeds, make a memorandum of the substance of what such witness deposes; and such memorandum shall be written and signed by such officer with his own hand, and shall form part of the record. If such officer is prevented from making a memorandum as above required, he shall record the reason of his inability to do so. Taking evidence given in

English; Translation to be on record.- When the evidence is given in English, such officer may take it down in that language with his own hand, and an authenticated translation of the same in the language in ordinary use in the district shall be made and shall form part of the record.

194. Writing and explanation of decisions. :-

Every decision, after a formal inquiry, shall be written by the officer passing the same in his own hand-writing, and shall contain a full statement of the grounds on which it is passed.

195. Summary inquiries how to be conducted. :-

In summary inquiries the presiding officer shall himself, as any such inquiry proceeds, record a minute of the proceedings in his own hand in English or in the language of the district, embracing the material averments made by the parties interested, the material parts of the evidence, the decision, and the reasons for the same:

Provided that it shall at any time be lawful for such officer to conduct an inquiry directed by this Act to be summary under all, or any, of the rules applicable to a formal inquiry, if he deem fit.

196. Formal and summary inquiries to be deemed judicial proceedings. :-

A formal or summary inquiry under this Act shall be deemed to be a "Judicial proceeding" within the meaning of sections 193, 219 and 228 of the Indian Penal Code, and the office of any authority holding a formal or summary inquiry shall be deemed a Civil Court for the purposes of such inquiry. Hearing and decisions. Notice to parties.-Every hearing and decision, whether in a formal or summary inquiry shall be in public, and the parties or their authorised agents shall have due notice to attend.

197. Ordinary inquiries how to be conducted. :-

An inquiry which this Act does not require to be either formal or summary, or which any revenue officer may on any occasion deem to be necessary to make, in the execution of his lawful duties, shall be conducted according to such rules applicable thereto, whether general or special, as may have been prescribed by the State Government, or an authority superior to the officer conducting such inquiry, and, except in so far as controlled by such rules, according to the discretion of the officer in such way as may seem best calculated for the ascertainment of all essential facts and the furtherance of the public good.

198. Copies and translations, etc., how to be obtained. :-

In all cases in which a formal or summary inquiry is made, authenticated copies and translations of decisions, orders and the reasons therefor, and of exhibits, shall be furnished to the parties, and original documents used as evidence shall be restored to the persons who produced them, or to persons claiming under them on due application being made for the same, subject to such charges for copying etc. as may, from time to time be authorized by the State Government.

199. Arrest of a defaulter to be made upon a warrant. :-

Whenever it is provided by this Act that a defaulter, or any other person may be arrested, such arrest shall be made upon a warrant issued by any officer competent to direct such persons' arrest.

200. Power of revenue officer to enter upon any lands or premises for purposes of measurement, etc. :-

It shall be lawful for any revenue officer at any time, and from time to time, to enter, when necessary, for the purposes of measurement, fixing, or inspecting boundaries, classification of soil, or assessment, or for any other purpose connected with the lawful exercise of his office under the provisions of this Act, or of any other law for the time being in force relating to land revenue, any lands or premises, whether belonging to the Government or to private individuals, and whether fully assessed to the land revenue or partially or wholly exempt from the same: Provided always that no building used as a human dwelling shall be entered, unless with the consent of the occupier thereof, without a notice having been served at the said building not less than seven days before such entry; and provided also that in the cases of buildings of all descriptions, due regard shall be paid to the social and religious prejudices of the occupiers.

201. State Government to determine the language of a district. :-

The State Government may declare what shall, for the purposes of this Act, be deemed to be the language in ordinary use in any district.

202. Collector how to proceed in order to evict any person wrongfully in possession of land. :-

Whenever it is provided by this, or by any other Act for the time being in force, that the Collector may or shall evict any person wrongfully in possession of land, such eviction shall be made in the

following manner, viz.- by serving a notice on the person or persons in possession requiring them within such time as may appear reasonable after receipt of the said notice to vacate the land, and if such notice is not obeyed by removing or deputing a subordinate to remove any person who may refuse to vacate the same, and if the officer removing any such person shall be resisted or obstructed by any person, the Collector shall hold a summary inquiry into the facts of the case, and if satisfied that the resistance or obstruction was without any just cause, and that such resistance and obstruction still continue, may, without prejudice to any proceedings to which such person may be liable under any law for the time being in force for the punishment of such resistance or obstruction issue a warrant for the arrest of the said person, and on his appearance commit him to close custody in the office of the Collector or of any Mamlatdar or Mahalkari, or send him with a warrant, in the form of Schedule I, for imprisonment in the civil jail of the district for such period not exceeding thirty days, as may be necessary to prevent the continuance of such obstruction or resistance.

CHAPTER 13

APPEALS AND REVISION

203. Appeal to lie from any order passed by revenue officer to his superior. :-

In the absence of any express provision of this Act, or of any law for the time being in force to the contrary, an appeal shall lie from any decision or order passed by a revenue officer under this Act or any other law for the time being in force to that officer's immediate superior, whether such decision or order may itself have been passed on appeal from a subordinate officer's decision or order or not.

204. Appeal when to lie to the State Government. :-

Subject to the provision in the Bombay Revenue Tribunal Act, 1939 an appeal shall lie to the State Government from any decision or order passed¹ [x x x] by a Survey Commissioner, except in the case of any decision or order passed by such officer on appeal from a decision or order itself recorded in appeal by any officer subordinate to him.

1. Deleted by Gujarat 15 of 1964.

205. Periods within which appeals must be brought. :-

No appeal shall be brought after the expiration of sixty days if the

decision or order complained of have been passed by an officer inferior in rank to a Collector or a Superintendent of Survey in their respective departments; nor after the expiration of ninety days in any other case. In computing the above periods, the time required to prepare a copy of the decision or order appealed against shall be excluded.

206. Admission of appeal after period of limitation. :-

Any appeal under this Chapter may be admitted after the period of limitation prescribed therefor, when the appellant satisfies the officer or the State Government to whom or to which he appeals, that he had sufficient cause for not presenting the appeal within such period. No appeal shall lie against order passed under this section admitting an appeal.

207. Provision where last day for appeal falls on a Sunday or a holiday. :-

Whenever the last day of any period provided in this Chapter for the presentation of an appeal falls on a Sunday or other holiday recognized by the State Government the day next following the close of the holiday shall be deemed to be such last day.

208. Copy of order to accompany petition of appeal. :-

Every petition of appeal shall be accompanied by the decision or order appealed against or by an authenticated copy of the same.

209. Powers of appellate authority. :-

The appellate authority may for reasons to be recorded in writing either annul, reverse, modify or confirm the decision or order of the subordinate officer appealed against, or he may direct the subordinate officer to make such further investigation or to take such additional evidence as he may think necessary, or he may himself take such additional evidence:

Provided that it shall not be necessary for the appellate authority to record reasons in writing-

- (a) when an appeal is dismissed summarily, or
- (b) when the decision or order appealed from is itself a decision or order recorded in appeal, or
- (c) when an appeal is made to the State Government under section 204.

210. Power to suspend execution of order of subordinate

officers. :-

In any case in which an appeal lies, the appellate authority may, pending decision of the appeal, direct the execution of the decision or order of the subordinate officer to be suspended.

211. Power of State Government and of certain revenue officers to call for and examine records and proceedings of subordinate officers; and to pass orders thereupon. :-

The State Government and any revenue officer, not inferior in rank to an Assistant or Deputy Collector or a Superintendent of Survey, in their respective departments, may call for and examine the record of any inquiry or the proceedings of any subordinate revenue officer for the purpose of satisfying itself or himself, as the case may be, as to the legality or propriety of any decision or order passed, and as to the regularity of the proceedings of such officer. The following officer may in the same manner call for and examine the proceedings of any officer subordinate to them in any matter in which neither a formal nor a summary inquiry has been held, namely, a Mamlatdar, a Mahalkari, an Assistant Superintendent of Survey and an Assistant Settlement Officer. And to pass orders thereupon.-If in any case, it shall appear to the State Government, or to such Officer aforesaid, that any decision or order or proceedings so called for should be modified, annulled or reversed, it. or he may pass such order thereon as it or he deems fit.

Provided that an Assistant or Deputy Collector shall not himself pass such order in any matter in which a formal inquiry has been held, but shall submit the record with his opinion to the Collector, who shall pass such order thereon as he may deem fit.

212. Rules as to decisions or orders expressly made final. :-

Whenever in this Act it is declared that a decision or order shall be final, such expression shall be deemed to mean that no appeal lies from such decision or order. The State Government alone shall be competent to modify, annul or reverse any such decision or order under the provisions of the last preceding section.

CHAPTER 14

MISCELLANEOUS

213. Maps and land records open to inspection. Extracts and copies shall be given. :-

Subject to such rules and the payment of such fees as the State Government may from time to time prescribe in this behalf, all maps and land records shall be open to the inspection of the public

at reasonable hours, and certified extracts from the same or certified copies thereof shall be given to all persons applying for the same.

214. Rules. :-

(1) The State Government may, by notification published in the Official Gazette,¹[make, whether prospectively or retrospectively, rules] not inconsistent with the provisions of this Act to carry out the purposes and objects thereof and for the guidance of all persons in matters connected with the enforcement of this Act or in cases not expressly provided for therein.

(2) In particular, and without prejudice to the generality of the fore-going power, such rules may be made-

(a) regulating the appointment of revenue officers and the exercise by them of their powers and duties;

²[xxx]

(b) regulating the assessment of land to the land revenue and the alteration and revision of such assessment and the recovery of land revenue;

(c) prescribing the notice to be given in the case of inquiries and orders under section 37;

(d) prescribing the purposes for which unalienated land liable to the payment of land revenue may or may not be used, and regulating the grant of permission to use agricultural land for non-agricultural purposes;

(e) regulating the disposal of land and other property vesting in the Government for the purposes of the State;

(f) regulating the disposal of forfeited land;

(g) prescribing the terms and conditions on which, and the periods for which, unoccupied unalienated land may be granted;

³[(g-1)] fixing the maximum amount of fine leviable under section 61;

⁴[(h) the form of notice and the particulars to be sent under clause (b) of sub-section (2), the form of and the time within which a certificate is to be issued under sub-section (3), the rules subject to

which the Collector may direct payment of fine under clauses (a) and (c) and the form of notice to be served under clause (b) of sub-section (4), and the circumstances in which the period may be extended under the proviso to clause (a) of sub-section(5), of section 65-B.]

5[(h-i)] prescribing the authority to which, the manner in which, and the times at which, the conversion tax shall be payable by an occupant under section 67-A;

6[(h-ii) prescribing the form of notice to be issued to the transferee or his success or in interest by the Collector, making rules relating to the liability to pay arrears of land revenue in respect of an occupancy restored to the tribal transferor under sub-section (3) of section 73-AA, and prescribing the period within which the tribal transferor shall accept the occupancy restored to him, under the proviso to the said sub-section (3);

(h-iii) prescribing the circumstances in which and the conditions subject to which the previous sanction of the Collector shall be given under sub-section (2), occupancy price on the payment of which occupancy shall be granted under sub-section (5) and the distance within which any other village shall be situated and the order of priority in which, the occupancy price at which and the condition subject to which, the occupancy shall be granted to other classes of persons under sub-section (6) of section 73-AA;

(h-iv) the form in which the declaration shall be made, and the manner in which such declaration shall be verified, by the transferor, under clause (a) of sub-section (1) of section 73-AD.]

7[(i) regulating the conduct of surveys and settlements of land revenue and prescribing the notice to be given under section 117-O before the introduction of the settlement;]

(j) regulating the division of survey numbers into sub- divisions and the fixing of the assessment of sub- divisions under section 117-A;

(k) regulating the construction, laying out, maintenance and repair of boundary marks;

(l) regulating the compilation, maintenance and revision of the record of rights and the registers of mutations, disputed cases and tenancies, and prescribing the forms in which they are to be compiled and the officers by whom the said records and registers

are to be tested and revised;

(m) regulating the exercise by village accountants and revenue officers of the powers of a survey officer and the assessment of cost and expenses under section 135-G;

(n) prescribing the mode, form and manner in which appeals under Chapter XIII shall be drawn up and presented;

(o) prescribing the records, registers, accounts, maps and plans to be maintained for the purposes of this Act and the manner and forms in which they shall be prepared and maintained;

(p) the manner in which the assessment of survey numbers and sub- divisions thereof shall be based on their classification value;

(q) the manner in which enquiry is to be held under section 117-1;

(r) the manner in which the⁸[average yield of crops] of land is to be ascertained by the Settlement Officer;

(s) the manner in which the settlement report shall be published under section 117-J;

(t) the manner in which and the places at which the notice inviting objections to the settlement proposals shall be published under sub-section (2) of section 117-J;

(u) the scale according to which the surcharge shall be levied or the rebate shall be granted under⁹[x x x] section 117-M;

10 [(v) regulating the supply of agriculturist pass book.]

(3) The power to make rules under this section shall be subject to the condition of previous publication.

1. Substituted by Gujarat 2 of 1981.
2. Deleted by Gujarat 35 of 1965.
3. Re-numbered by Gujarat 6 of 1997.
4. Inserted by Gujarat 6 of 1997.
5. Re-numbered by Gujarat 37 of 1980.
6. Ins by Gujarat 37 of 1980.
7. Substituted by Bombay 20 of 1939.
8. Substituted by Bombay 28 of 1956.
9. Deleted by Bombay 28 of 1956.
10. Inserted by Gujarat 9 of 1995.

215. Penalty for breach of rules. :-

1[

(1) It shall be lawful for the State Government, in making any rule under section 214, to prescribe that any person committing a breach of the same shall on conviction by a Magistrate be punished with imprisonment for a term not exceeding one month or with fine not exceeding five hundred rupees, or with both, in addition to any other consequences that would ensue from such breach.]

2 [(2) Nothing in section 214 shall authorise the State Government to make retrospectively a rule prescribing a penalty referred to in sub-section (1).

(b) Notwithstanding the retrospective operation of any rule made under section 214, nothing or no action constituting breach of such rule, done or taken by a person before such rule is so made shall render such persons liable to penalty prescribed under sub- section (1).]

1. Re-numbered by Gujarat 2 of 1981.

2. Added by Gujarat 2 of 1981.

216. Chapters VIII to X to apply to alienated villages. :-

1

(1) The provisions of Chapters VIII. VIII-A, IX and X shall be applicable to all alienated villages and alienated shares of villages subject to the following modifications:-

(i) subject to the provisions of any covenant or agreement entered into by the State Government with the holder or holders of any such village or share the costs of any survey directed under section 95 or a fresh survey directed under section 106 and of any settlement carried out under the said Chapters in any such village or share shall be payable by the holder or holders in proportion to their share in the rent or revenue of the village or share;

(ii) if the State Government so directs such costs shall also be payable by any class of persons who, in the opinion of the State Government, have any interest in any land in such village or share and in such proportion as the State Government may direct;

(iii) on the introduction of a settlement under Chapter VIII or VIII-A in any such village or share, the holder or holders of such village or share shall, in proportion to his share in the rent or revenue of the village or share, be liable to pay-

(a) the salaries of the village officers appointed for the village or

the share including the commutation allowance payable in respect of a commuted kulkami watan in the village, if any,

(b) the costs of the levy of a cess under section 93 of the Bombay Local Board Act, 1923 (Bombay VI of 1923);

(iv) the liability under clauses (i) and (iii) shall be a first charge on the rent or revenue of such village or share;

(v) the total amount payable under clauses (i) and (iii) in respect of the holding in any such village or share shall be recoverable from the holder of such village or share entered in the Record of Rights;

(vi) the amount payable under clause (ii) by any class of persons shall be recoverable in such manner as the State Government directs from the members of that class as entered in the Record of Rights.

(2) All survey settlements heretofore introduced in alienated villages shall be valid as if they had been introduced in accordance with the provisions of this section.

1. Substituted by Bombay 45 of 1947.

217. Holders of land in alienated villages. :-

When a survey settlement has been introduced under the provisions of the last section or if any law for the time being in force, into an alienated village, the holders of all lands to which such settlement extends shall have the same rights and be affected by the same responsibilities in respect of the lands in their occupation as holders of land in unalienated villages have, or are affected by, under the provisions of this Act, and all the provisions of this Act, relating to holders of land in unalienated villages shall be applicable, so far as may be, to them.

218. Construction of this Act. :-

Nothing in this Act, which applies in terms to unalienated land or to the holders of unalienated land only, shall be deemed to affect alienated land, or the rights of holders of alienated land or of the Government in respect of any such land, and no presumption shall be deemed to arise either in favour or to the prejudice, of any holder of alienated land from any provision of this Act in terms relating to unalienated land only.

218A. Repeal of Bombay V of 1879 as in force in the Kutch area of the State of Gujarat. :-

(1) The Bombay Land Revenue Code, 1879 (Bombay V of 1879), as extended to the Kutch area of the State of Gujarat under section 2 of the Part C States (Laws) Act, 1950 is hereby repealed:

Provided that unless a different intention appears, the repeal shall not in relation to the Kutch area of the State of Gujarat-

(a) revive anything not in force or existing at the time at which the repeal takes effect; or

(b) affect the previous operation of the Act so repealed or anything duly done or suffered thereunder; or

(c) affect any right, privilege, obligation or liability acquired, accrued or incurred under the Act so repealed; or

(d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against the Act so repealed; or

(e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;

(f) affect the levy, assessment, collection or refund of any sum due on account of land revenue, any quit rents, nazranas, succession duties and forfeitures and any cesses profits from lands, emoluments, fees, charges and costs which may have become payable or leviable under the Act so repealed before the commencement of this Act in the said Kutch area and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed and any such sum due on account of land revenue and any quit rents, nazranas, succession duties and forfeitures and any cesses, profits from lands, emoluments, fees, charges, penalties, fines and costs may be paid, levied, assessed or collected or refund thereof made as if the Bombay Land Revenue Code (Gujarat Extension of Kutch Area and Amendment) Act, 1965 (Gujarat 35 of 1965) had not been passed:

Provided further, but subject to the preceding proviso, anything done or action taken or deemed to be taken (including any rules, regulations, orders, notifications and forms made or issued and notices issued and enquiries made) under the Act so repealed shall be deemed to have been done or taken under the corresponding

provisions of this Act and shall continue to be in force accordingly, unless and until superseded by anything done or any action taken under this Act.

(2) Any reference to the Act so repealed or to any provision thereof or to any officer appointed or any authority appointed or constituted by the Act so repealed in any law for the time being in force in the Kutch area of the State of Gujarat or in any instrument or other document shall be constructed as a reference to this Act or the relevant provision thereof, or to the officer or as the case may be the authority appointed or constituted under this Act and the officer or authority shall have and exercise all the powers under such law, instrument or document.

1. Inserted by Gujarat 35 of 1965.

219. Repeal of Bombay V of 1879 as in force in Saurashtra area of State of Bombay. :-

(1) The Bombay Land Revenue Code, 1879 (Bombay V of 1879), as applied to the Saurashtra area of the State of Bombay by the State of Saurashtra (Application of Central and Bombay Acts) Ordinance, 1948 (Sau. Ord. XXV of 1948), is hereby repealed: Provided that unless a different intention appears, the repeal shall not in relation to the Saurashtra area of the State of Bombay: -

(a) revive anything not in force or existing at the time at which the repeal takes effect; or

(b) affect the previous operation of the Act so repealed or anything duly done or suffered thereunder, or

(c) affect any right, privilege, obligation or liability acquired, accrued or incurred under the Act so repealed; or

(d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against the Act so repealed; or

(e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;

(f) affect the levy, assessment, collection or refund of any sum due on account of land revenue, any quit rent, nazranas, succession duties and forfeitures, and any cesses, profits from lands, emoluments, fees, charges and cost which may have become payable or leviable under the Act so repealed before the

commencement of this Act in the Saurashtra area aforesaid, and any such investigation, legal proceeding or re..... continued or enforced, and any such penalty, forfeiture or punishment may be imposed and any such sum due on account of land revenue and any quit rents, nazranas, succession duties and forfeitures and any cesses, profits from lands, emoluments, fees, charges, penalties, fines and costs may be paid, levied, assessed or collected or refund thereof made as if the Bombay Land Revenue Code (Extension to Saurashtra Area) Act, 1959, had not been passed:

Provided further, but subject to the preceding proviso, anything done or action taken including any rules, regulations, orders, notifications and forms made or issued and in force, immediately before the commencement of the Bombay Land Revenue Code (Extension to Saurashtra Area) Act, 1959, all notices issued and all enquiries made under the Act so repealed shall be deemed to have been done or taken under the corresponding provisions of this Act and shall continue to be in force accordingly, unless and until superseded by anything done or any action taken under this Act.

(2) Any reference to the Act so repealed or any provision thereof or any officer appointed or any authority appointed or constituted by the Act so repealed, in any law for the time being in force in the Saurashtra area of the State of Bombay or in any instrument or other document shall be construed as a reference to this Act or the relevant provision thereof, or to the officer or authority respectively, and the officer or authority shall have and exercise all the powers under such law, instrument or document.

220. Removal of difficulties. :-

If any difficulty arises in giving effect to the provisions of this Act, the State Government may by order published in the Official Gazette make such provision or give such direction as appears to it to be necessary for removing the difficulty."

SCHEDULE A

A

[Repealed]

SCHEDULE B

B

[Omitted].

SCHEDULE C

FORM OF WARRANT TO BE ISSUED BY THE COLLECTOR UNDER SECTION 25 OR 157

Seal To The Officer In Charge of the Civil Jail At..... Whereas A.B. of..... was on the..... day of..... 19 ordered by..... to (here state the substance of the demand made); and whereas the said A.B. has neglected to comply with the said order, and it has therefore been directed, under the provisions of section..... of the Bombay Land Revenue Code, that he be imprisoned in the Civil Jail until he obey the said order or until he obtain his discharge under the provisions of section 25 or 28 (or section 157 or 164 as the case may be,) of the said Code: you are hereby required to receive the said A. B. into Jail under your charge and to carry the aforesaid order into execution according to law. Dated this..... day of..... 19 ... (Signature of Collector).

SCHEDULE D

FORM OF BOND TO BE REQUIRED UNDER SECTION 28 OR 164

Whereas I, have been ordered by and whereas I dispute the right of the said..... to make the said order, I hereby bind myself to file a suit within fifteen days from the date of this bond in the District Court of..... to contest the justice of the demand, and do agree that in the event of a decree being passed against me I will fulfill the same and will pay all amounts, including costs and interests that may be due by me, or that if I fail to institute a suit as aforesaid, I will, when required, pay the above mentioned amount of..... rupees (or will deliver up the above mentioned papers or property, as the case may be), and in the case of my making default therein I hereby bind myself to forfeit to the Government the sum of..... Rupees. Dated (Signatures) FORM OF SECURITY TO BE SUBJOINED TO THE BOND OF THE PRINCIPAL WE, hereby declare ourselves securities for the above said..... that he shall do and perform all that he has above undertaken to do and perform and in case of his making default therein we hereby bind ourselves to forfeit to the Government the sum of..... rupees. Dated (Signature)

SCHEDULE E

I-FORM OF NOTICE TO BE GIVEN BY LANDLORD TO TENANT TO QUIT.

To A.B. I do hereby give you notice that I do intend to enter upon, and take possession of, the land (here give the description) which you now hold as tenant under me, and you are therefore required to quit and deliver up possession of the same at the end of this current year, terminating on the..... of..... 19 . (Signed) C. D. Dated this..... day of..... 19 .
II-FORM OF NOTICE TO BE GIVEN BY TENANT TO LANDLORD OF HIS INTENTION TO QUIT. To C. D. I do hereby give you notice that I shall quit and deliver up to you, at the end of this current year terminating on the..... of 19 the land (here give the description) which I hold from you. (Signed) A.B. Dated this..... day of..... 19 .

SCHEDULE F

F

SCHEDULE H

FORM OF SANAD FOR BUILDING SITES

The Ashok Capital Motif THE GOVERNMENT OF GUJARAT To WHEREAS the

State Government, with a view to the settlement of the land revenue and the record and preservation of proprietary and other rights connected with the soil, has, under the provisions of the Bombay Land Revenue Code, directed a survey of the lands within the.....of and ordered the necessary inquiries connected therewith to be made, this sanad is issued under section 133 of the said Code to the effect that- There is a certain plot of ground occupied by you in the..... division of the..... of register No..... in tile map marked sheet no. and facing towards the..... the road leading fromto..... containing about square yards and of the following shape and about the following dimensions:- You are hereby continued in the said occupancy exempt from all land revenue (or subject to the payment of Rs.....per annum to the land revenue). The terms of your tenure are such that your occupancy in both transferable and heritable and will be continued by the State Government, without any objection or question as to title to whosoever shall from time to time be its lawful holder (subject only to the condition of the payment annually of the..... land revenue according to the provisions of the Bombay Land Revenue Code or of any other law for the time being in force, and to the liability to have the said rate of assessment revised at the expiration of a term of years reckoned from the and thereafter at successive periods of.....years in perpetuity, and to the necessity for compliance with the provisions of the law from time to time in force as to the time and manner of payment of the said assessment, and to the liability of forfeiture of the said occupancy and of all rights and interests connected therewith in case of your failure to pay the said assessment as required by law). (Signed)

SCHEDULE 1

FORM OF WARRANT TO BE ISSUED BY THE COLLECTOR UNDER SECTION 202

(Seal)ToThe Officer In Charge of the Civil Jail At Whereas A.B. of..... has resisted (or obstructed) C.D. in removing E.F. (or himself that is. the said A.B.) from certain land in the village of.....in the..... taluka and whereas it is necessary, in order to prevent the continuance of such obstruction (or resistance) to commit the said A.B. to close custody: You are hereby required under the provisions of section 202 of the Bombay Land Revenue Code to receive the said A.B. into the Jail under your charge and there to keep him in sate custody for.....days. Dated this..... day of.....19 . (Signature of Collector)

SCHEDULE J

(Modifications subject to which this Act extends to the Saurashtra area of the State of Bombay).

[xxx]2. In section 3.- (i) in clause (13), the portion beginning with the words "and for the purposes of and ending with the words "be deemed to be the tenant of such grantor" shall be deleted. (ii) after clause (27) the following new clause shall be inserted:- "(28) Any reference to Act XI of 1852, Bombay Revenue Jurisdiction X of Act, 1876 (X of 1876), Dekkhan Agriculturists' Relief Act, 1879 (XVII of 1879), Transfer of Property Act 1882, (IV of 1882), Land Acquisition Act, 1894, Code of Criminal Procedure, 1898, Co-operative Societies Act, 1912 (II of 1912), Bombay Acts II and VII of 1863, Bombay Act I of 1865, Bombay Act IV of 1868, Bombay Irrigation Act, 1879 (Bombay VII of 1879), Bombay Local Boards Act, 1923 (Bombay VI of 1923), and the Bombay Village Panchayats Act. 1933 (Bombay VI of 1933, includes in relation to the Saurashtra area of the State of Bombay a reference to the corresponding law in force in that area." 3. After section 13,

the following shall be inserted, namely: - "13-A. Power to invest Officer not inferior to Aval Karkun with duties and powers of Mamlatdar or Mahalkari.- Whenever it may appear necessary to the State Government, the State Government may invest any officer subordinate in rank to a Mamlatdar of Mahalkari but not inferior in rank to that of Aval Karkun, with such of the duties and powers of a Mamlatdar or a Mahalkari. within the local limits of a taluka or a mahal as the State Government may from time to time see fit and the State Government may also from time to time direct whether the immediate superior of such officer shall, for the purposes of section 203, be deemed to be the Mamlatdar or the Assistant or Deputy Collector or the Collector in charge of the taluka." Section 50 shall be deleted. 5. In section 58 the word "hereditary" at both the places where it occurs shall be deleted. 6. After section 74, the following shall be inserted, namely: - "75. Bar against relinquishment where lump assessment has been fixed upon fields, etc. When a lump assessment is fixed upon several fields or survey numbers in the aggregate, it shall not be lawful for the occupant to relinquish as aforesaid anyone or more of such fields or survey numbers except with the previous consent of the Collector. It shall be competent to the Collector to grant or refuse the consent; if he grants it, the occupancy shall be divided and the Collector shall determine the proportional amount of land revenue to be paid by each portion of it and the original occupant and the person if any in whose favour he relinquishes a portion of his occupancy shall be held liable for the revenue severally assessed on their portions." 7. Section 84-1A shall be deleted. 8. In section 117-R, for the words, brackets and figures "Bombay Land Revenue Code (Amendment) Act, 1939" the words, brackets and figures "the Bombay Land Revenue Code (Extension to Saurashtra Area) Act. 1959" shall be substituted.[9. xxx] 10. In section 135-G, for clause (a) the following shall be substituted:- "(a)(1) Any revenue officer or village accountant may, for the purpose of preparing or revising any map or plan required for or in connection with any right under this Chapter, require by general notice or by summons the attendance of holders of land and of all persons interested therein, in person or by legally constituted agents duly instructed and able to answer all material questions and the presence of taluka and village officers who in their several stations and capacities are, legally or by usage, bound to perform service in virtue of their respective offices and may also require from them such assistance in the operation of the survey and such service in connection therewith, as may not be inconsistent with the position of the individual so called on. (2) Such revenue officer or village accountant may also for the said purpose call upon all holders of land and other persons interested therein to assist in the measurement or classification of the lands to which the survey extends by furnishing flag holders, and"[11.x x x] 12. In section 136, in sub-section (1), the proviso shall be deleted. 13. In section 187,- (i) the words "or Regulation" wherever they occur shall be deleted; (ii) after the words "or under any Act" where they occur for the second time, the words "or Ordinance" shall be inserted: (iii) after the clause beginning with the words "and all monies due by any contractor" and ending with the words "under the terms of his agreement" the following clause shall be inserted:- "and all monies due by any person on account of loan advanced to him by any Bank owned or managed, either wholly or partially by the State Government." 14. After section 218. the following new sections shall be inserted, namely:-